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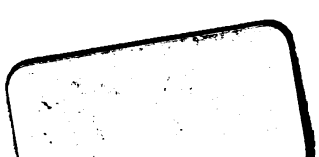

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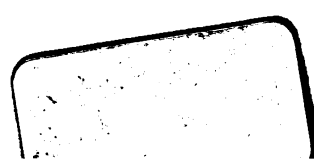

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PERCIVAL'S

MEDICAL ETHICS.

1803,) corrected occasionally by his unfinished and unpublished edition[c], and also by the posthumous reprint contained in vol. ii. of his collected "Works." (4 vols. 8vo. Bath, 1807.) The references have been verified, and in several instances the quotations have been corrected, but no other alteration has been made in the *text* of the work; as, even when the statements contain-

[c] Of this rare volume the only copy that the Editor has seen or heard of is in the library of the Manchester Royal Infirmary, and was given by Dr. Percival himself. In the beginning there is the following Note in his own handwriting:—"The completion of the Medical Jurisprudence has been long suspended; and it is uncertain when the undertaking will be resumed. A title page; an introduction; a fifth and sixth section; and an appendix, containing Notes and Illustrations, are wanting to finish this little work.

Manchester, March 17, 1794."

It ends abruptly on p. 96, which terminates chap. iv. The text for the most part agrees with that which was afterwards published, except that this latter contains about twenty paragraphs that are not to be found in the original sketch, and that great part of what forms Note XIV. in the present edition is there found in the *text*. At the end of the treatise there is the following Note, also in Dr. Percival's own hand-writing:—"Two sections wanting. Sect. V. On the Powers, Privileges, Honours, and Emoluments of the Faculty. Sect. VI. On the Moral, Religious, and Political Character of Physicians."

ed in it were positively erroneous, the Editor preferred correcting them (where necessary,) in a note[d]. Of the Notes and Illustrations added by Dr. Percival several have been omitted, as being no longer wanted, as also has the "Discourse on Hospital Duties" by his son.

By republishing Dr. Percival's Code the Editor does not mean to imply his agreement with all the opinions it contains, or his entire approval either of the plan or the execution of the work. The want of a detailed and scientific treatise on the subject of Medical Ethics, suited to the present state of the Profession in Great Britain, (as M. Simon's admirable "Déontologie Médicale" is to France,) is beginning to be universally felt. It has indeed long occupied the Editor's thoughts, and (as he has already ventured to intimate to the public[e],) he still hopes, if life and leisure be allowed him, and if no abler writer step forward to anticipate his design, to endeavour at some future time to supply it.

Sept. 11, 1849.

[d] All the Editor's additions are placed within brackets.

[e] In the Advertisement to Gisborne "On the Duties of Physicians."

Nulla enim vitae pars, neque publicis neque privatis, neque forensibus neque domesticis in rebus, neque si tecum agas quid, neque si cum altero contrahas, vacare officio potest; in eoque colendo sita vitae est honestas omnis, et in negligendo turpitudo.—(Cicero, *De Off.* i. 2.)

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SKETCH OF THE LIFE OF DR. PERCIVAL[a].

THOMAS PERCIVAL was born at Warrington in Lancashire, Sept. 29, 1740. When only three years old, he had the misfortune to lose both his parents; and the care of his early education devolved upon his eldest sister. When of proper age, he was placed at a private academy in the neighbourhood of his native town; to the free grammar-school of which he was subsequently removed.

In 1757 his name was enrolled as the first student at the Warrington academy, then just instituted under the superintendence of Dr. Aikin. After having acquired a high reputation for diligence in classical and theological studies, he proceeded in 1761 to Edinburgh, where he applied himself with great assiduity to medical pursuits. He would, it appears, have gone either to Oxford or Cambridge, but for his scruples about subscription to the Thirty-nine Articles. Whilst in Edin-

[a] Taken, with a few alterations, from "the Georgian Era," vol. ii.

burgh he became acquainted with Mr. Hume and Dr. Robertson; and during a visit to London contracted a close intimacy with Lord Willoughby de Parham, who made him his constant companion, and became his warmest friend and patron. He was indebted to this nobleman for an early introduction to the most eminent literary characters of the day; and through his recommendation became a Fellow of the Royal Society in 1765.

In the same year he took his degree of M.D. at Leyden, and afterwards visited Paris and Hamburgh. He then returned to Warrington; at which place, after a residence of a few months, he married the daughter of Nathaniel Bassnett Esq. In 1767 he settled at Manchester, where he passed the remainder of his life.

Dr. Percival held a distinguished rank both as a literary character, and a physician. In the latter capacity he displayed quick penetration, discriminating judgement, patient attention, and above all, says Abp. Magee, a deep sense of responsibility. As an author he obtained considerable reputation in the philosophical and religious world, particularly by his "Essays, Medical and Experimental," and his last work entitled, "Medical Ethics," in which, it is said, while delineating the requisites and quali-

fications of the medical practitioner, he has unconsciously displayed the most exact portraiture of himself. His other more important productions include "A Father's Instructions;" "Moral and Literary Dissertations," (which have rarely been surpassed by any didactic composition of a similar extent, for genuine feeling, refined taste, purity of style or aptness of illustration;) and several papers published in the Transactions of the Manchester Literary and Philosophical Society, of which he was an original member, and continued the president from its first foundation to the end of his life. He was the first who attempted to establish public lectures on mathematics, commerce, and the fine arts, in that town. In addition to his other honours he was a fellow of the Royal Society of Edinburgh, and a member of several foreign Societies. His correspondence was extensive, and embraced a variety of subjects: among his epistolary friends, were Archdeacon Paley, Dr. Priestley, Dr. Franklin, Dr. Beattie, and Hannah More. In one of his letters to the first of these celebrated characters, he avows himself a dissenter; but he rarely alludes to the fact elsewhere, and he is known to have entertained a sincere respect for the Church of England, of which his eldest son was a minister. He died at Manchester Aug. 30, 1804, in the

sixty-fourth year of his age. A Latin epitaph by the Rev. Dr. Parr is inscribed on his tomb in the church at Warrington; and over the president's chair, in the hall of the Manchester Philosophical Society, a mural tablet has been erected to his memory. His works were collected and published in 4 vols. 8vo., 1807, with a biographical memoir by his son Dr. Edward Percival, of Bath.

TO

SIR GEORGE BAKER, BART.,

PHYSICIAN TO THEIR MAJESTIES,

FELLOW OF THE ROYAL SOCIETY,

AND

LATE PRESIDENT OF THE COLLEGE OF PHYSICIANS,

&c. &c.

THIS CODE OF

PROFESSIONAL ETHICS,

WHICH HE HAS

HONOURED WITH HIS SANCTION,

AND IMPROVED BY HIS COMMUNICATIONS,

IS GRATEFULLY AND RESPECTFULLY

INSCRIBED,

BY HIS

OBLIGED AND AFFECTIONATE FRIEND,

THE AUTHOR.

[1803.]

Quicquid dignum sapiente bonoque est.

(Horace, *Ep.* i. 4. 5.)

TO E. C. PERCIVAL[a].

PERMIT me, my dear Son, to offer to your acceptance this little manual of MEDICAL ETHICS. In the composition of it, my thoughts were directed towards your late excellent brother[a], with the tenderest impulse of paternal love; and not a single moral rule was framed without a secret view to his designation, and an anxious wish that it might influence his future conduct.

To you, who possess in no inferior degree my esteem and attachment, who are prosecuting the same studies, and with the same object, my solicitudes are naturally transferred: and I am persuaded, these united considerations will powerfully and permanently operate upon your ingenuous mind.

It is the characteristic of a wise man to act on determinate principles; and of a good man to be assured that they are conformable to rectitude and virtue. The relations in which a Physician stands to his patients, to his brethren, and to the public, are complicated and multifarious; involving much knowledge of human nature, and extensive moral duties. The study of professional Ethics, there-

[a] [See below, p. 22.]

fore, cannot fail to invigorate and enlarge your understanding; whilst the observance of the duties which they enjoin, will soften your manners, expand your affections, and form you to that propriety and dignity of conduct, which are essential to the character of a gentleman. The academical advantages you have enjoyed at Cambridge, and those you now possess in Edinburgh, will qualify you, I trust, for an ample and honourable sphere of action. And I devoutly pray, that the blessing of GOD may attend all your pursuits, rendering them at once subservient to your own felicity, and the good of your fellow-creatures.

Sensible that I begin to experience the pressure of advancing years, I regard the present publication as the conclusion, in this way, of my professional labours[b]. I may, therefore, without impropriety, claim the privilege of consecrating them to you, as a paternal legacy. And I feel cordial satisfaction in the occasion of thus testifying the esteem and tenderness, with which, whilst life subsists, I shall remain,

Your affectionate friend,

THOMAS PERCIVAL.

Manchester, Febr. 20, 1803.

[b] [This anticipation was correct: Dr. Percival died in the following year, Aug. 30, in the sixty-fourth year of his age.]

AUTHOR'S PREFACE.

THE first chapter of the following work was composed in the spring of 1792, at the request of the Physicians and Surgeons of the Manchester Infirmary: and the substance of it constitutes the code of laws, by which the practice of that comprehensive institution is now governed. The Author was afterwards induced, by an earnest desire to promote the honour and advancement of his Profession, to enlarge the plan of his undertaking, and to frame a general system of Medical Ethics; that the official conduct and mutual intercourse of the Faculty might be regulated by precise and acknowledged principles of urbanity and rectitude. Printed copies of the scheme were therefore distributed amongst his numerous correspondents, by most of whom it was warmly encouraged, and by many of them was honoured with valuable suggestions for its improvement.

Whilst the Author was thus extending his views, and carrying on his work with ardour, he lost the strongest incentive to its prosecution, by

the death of a beloved son[c], who had nearly completed the course of his academical education, and whose talents, acquirements, and virtues, promised to render him an ornament to the healing art. This melancholy event was followed, not many years afterwards, by a second family loss equally afflictive[d]; and the design has ever since been wholly suspended. The Author now resumes it, animated by the hope that it may prove beneficial to another son[e], who has lately exchanged the pursuits of general science at Cambridge, for the study of Medicine at Edinburgh. He feels at the same time impressed with the conviction that the languor of sorrow becomes culpable, when it obstructs the offices of an active vocation. "I hold every man," says Lord Bacon[f], "a debtor to his profession; from the which as men of course do seek to receive countenance and profit, so ought they of duty to endeavour themselves, by way of amends, to be a help and ornament thereunto.

[c] [James Percival, who died Febr. 25, 1793, in the twenty-fourth year of his age, of a malignant fever, which he had contracted while prosecuting his medical studies at Edinburgh. See *Memoirs of Dr. Percival*, prefixed to his "Works," p. clxxix.]

[d] [The death of his eldest son the Rev. Thomas Bassnett Percival, in the thirty-second year of his age, May 27, 1798. See *Memoirs &c.* p. ccii.]

[e] [Edward Cropper Percival, the editor of his father's collected Works, and author of "Practical Observations on Typhous Fever," 8vo. 1819; who settled first at Dublin, and afterwards at Bath, where he died, 1819, at the age of 36.]

[f] In the preface to his *Elements of the Common Laws of England.* (*Works*, vol. iv. p. 9.)

This is performed in some degree by the honest and liberal practice of a profession, when men shall carry a respect not to descend into any course that is corrupt and unworthy thereof, and preserve themselves free from the abuses wherewith the same profession is noted to be infected: but much more is this performed if a man be able to visit and strengthen the roots and foundation of the science itself; thereby not only gracing it in reputation and dignity, but also amplifying it in profession and substance."

It was the Author's original intention to have treated of the powers, privileges, honours, and emoluments of the Faculty. But he now conceives that this would lead him into a field of investigation too wide and digressive; and therefore chooses to confine himself to what more strictly belongs to Medical Ethics.

To these institutes he has annexed an Anniversary Discourse, delivered by the late Rev. Thomas Bassnett Percival, LL.B., before the President and Governors of the Infirmary at Liverpool[g]. As it is an address to the gentlemen of the Faculty, the officers, the clergy, and the trustees of the charity, on their respective hospital duties, by one competent to the subject from his early studies, it cannot but be deemed sufficiently appropriate to

[g] [This Sermon is omitted in the present edition.]

the present work, exclusively of a father's claim to the privilege of its insertion.

The aphoristic form of this code of Medical Ethics, though adapted to such an undertaking, forbids in a great measure all digression, and even precludes the discussion of many interesting points nearly connected with the subject. Supplementary Notes and Illustrations, therefore, are necessary to the completion of the Author's plan: and he trusts the candid reader will grant him the liberty of thus stating his opinions more at large; of rectifying misconceptions, to which the brevity essential to the work may give rise; and of correcting whatever subsequent reflection, or the judicious observations of his friends, may discover to be erroneous.

A considerable portion of these sheets was communicated to the Rev. Thomas Gisborne, M.A.[h], whilst engaged in the composition of his "Enquiry into the Duties of Men," a work that reflects the highest honour on the abilities and philanthropy of the author, and which may be justly regarded as the most complete system extant of practical ethics. The chapter concerning Physicians[1] contains a reference to these institutes, expressed in the most gratifying terms of friendship; and it

[h] [The author of numerous religious works; born Oct. 31, 1758, died March 24, 1846. See *Gent. Mag.* for June 1846.]

[1] [The twelfth chapter, which has been extracted, and reprinted in a separate form, 1847, Oxford, 16mo.]

treats so largely of the duties of the Faculty, as to seem, at first view, to supersede the use of the present manual. But the two publications differ not only in their plan, but in many of their leading objects; and it may be hoped they will rather illustrate than interfere with each other. The same remarks may be applied to the excellent "Lectures" of Dr. Gregory[k]. Even the "Statuta Moralia" of the College of Physicians[l], whatever merit or authority they possess, are not sufficiently comprehensive for the existing sphere of Medical and Chirurgical duty; and by the few regulations which they establish, they tacitly sanction the recommendation of a fuller and more adequate code of professional offices.

Copies of the former unfinished impression of this work have been transmitted to the libraries of several infirmaries in different parts of the kingdom; and the Author has reason to hope that they have contributed to excite attention to the subject of hospital police. Amongst other pleasing proofs of this truth, he refers with peculiar satisfaction to the late publications of his friends, Sir G. O. Paul, Bart., and Dr. Clark[m], of Newcastle-upon-Tyne.

[k] [Dr. John Gregory's well-known "Lectures on the Duties and Qualifications of a Physician."]

[l] ["Statuta Moralia Collegii Regalis Medicorum Londinensium," 1722, 8vo. pp. 16.]

[m] [Author of "Observations on Fevers," &c. 1780, 8vo., and other works.]

This work was originally entitled "Medical Jurisprudence;" but, some friends having objected to the term *Jurisprudence*, it has been changed to *Ethics*. According to the definition of Justinian, however, Jurisprudence may be understood to include moral injunctions as well as positive ordinances:—"Juris praecepta sunt haec; honeste vivere, alterum non laedere, suum cuique tribuere." (*Instit.* i. 1. § 3.)

Manchester, Febr. 15, 1803.

MEDICAL ETHICS;

&c. &c.

CHAPTER I.

Of Professional Conduct, relative to Hospitals, or other Medical Charities.

§ 1. HOSPITAL Physicians and Surgeons should minister to the sick with due impressions of the importance of their office; reflecting that the ease, the health, and the lives of those committed to their charge depend on their skill, attention, and fidelity. They should study, also, in their deportment, so to unite tenderness with steadiness, and condescension with authority, as to inspire the minds of their patients with gratitude, respect, and confidence.

§ 2. The choice of a Physician or Surgeon cannot be allowed to hospital patients, consistently with the regular and established succession of medical attendance. Yet personal confidence is

not less important to the comfort and relief of the sick poor, than of the rich under similar circumstances; and it would be equally just and humane to enquire into and to indulge their partialities, by occasionally calling into consultation the favourite practitioner. The rectitude and wisdom of this conduct will be still more apparent, when it is recollected, that patients in hospitals not unfrequently request their discharge on a deceitful plea of having received relief, and afterwards procure another recommendation, that they may be admitted under the Physician or Surgeon of their choice. Such practices involve in them a degree of falsehood, produce unnecessary trouble, and may be the occasion of irreparable loss of time in the treatment of diseases.

§ 3. The feelings and emotions of the patients, under critical circumstances, require to be known and to be attended to, no less than the symptoms of their diseases: thus, extreme timidity with respect to venesection contra-indicates its use in certain cases and constitutions. Even the prejudices of the sick are not to be contemned, or opposed with harshness; for, though silenced by authority, they will operate secretly and forcibly on the mind, creating fear, anxiety, and watchfulness.

§ 4. As misapprehension may magnify real

evils, or create imaginary ones, no discussion concerning the nature of the case should be entered into before the patients, either with the House-Surgeon, the pupils of the hospital, or any medical visitor.

§ 5. In the large wards of an infirmary the patients should be interrogated concerning their complaints in a tone of voice which cannot be overheard. Secrecy, also, when required by peculiar circumstances, should be strictly observed. And females should always be treated with the most scrupulous delicacy. To neglect or to sport with their feelings is cruelty; and every wound thus inflicted tends to produce a callousness of mind, a contempt of decorum, and an insensibility to modesty and virtue. Let these considerations be forcibly and repeatedly urged on the hospital pupils.

§ 6. The moral and religious influence of sickness is so favourable to the best interests of men and of society, that it is justly regarded as an important object in the establishment of every hospital. The institutions for promoting it should therefore be encouraged by the Physicians and Surgeons, whenever seasonable opportunities occur; and, by pointing out these to the officiating clergyman, the sacred offices will be performed with propriety, discrimination, and greater cer-

tainty of success. The character of a Physician is usually remote either from superstition or enthusiasm; and the aid, which he is now exhorted to give, will tend to their exclusion from the sick wards of the hospital, where their effects have often been known to be not only baneful, but even fatal.

§ 7. It is one of the circumstances which softens the lot of the poor, that they are exempt from the solicitudes attendant on the disposal of property. Yet there are exceptions to this observation; and it may be necessary that an hospital patient, on the bed of sickness and death, should be reminded by some friendly monitor of the importance of a last will and testament to his wife, children, or relatives, who otherwise might be deprived of his effects, of his expected prize-money, or of some future residuary legacy. This kind office will be best performed by the House-Surgeon, whose frequent attendance on the sick diminishes their reserve, and entitles him to their familiar confidence. And he will doubtless regard the performance of it as a duty; for whatever is right to be done, and cannot by another be so well done, has the full force of moral and personal obligation.

§ 8. The Physicians and Surgeons should not suffer themselves to be restrained by parsimonious

considerations from prescribing wine, and drugs even of high price, when required in diseases of extraordinary malignity and danger. The efficacy of every medicine is proportionate to its purity and goodness; and on the degree of these properties, *caeteris paribus*, both the cure of the sick and the speediness of its accomplishment must depend. But, when drugs of inferior quality are employed, it is requisite to administer them in larger doses, and to continue the use of them a longer period of time; circumstances which probably more than counterbalance any savings in their original price. If the case, however, were far otherwise, no economy of a fatal tendency ought to be admitted into institutions, founded on principles of the purest beneficence, and which, in this age and country, when well conducted, can never want contributions adequate to their liberal support.

§ 9. The Medical gentlemen of every charitable institution are in some degree responsible for, and the guardians of, the honour of each other. No Physician or Surgeon, therefore, should reveal occurrences in the hospital, which may injure the reputation of any one of his colleagues; except under the restriction contained in the succeeding article.

§ 10. No professional charge should be made by a Physician or Surgeon, either publicly or pri-

vately, against any associate, without previously laying the complaint before the gentlemen of the Faculty belonging to the institution, that they may judge concerning the reasonableness of its grounds, and the measures to be adopted.

§ 11. A proper discrimination being established in all hospitals between the Medical and Chirurgical cases, it should be faithfully adhered to by the Physicians and Surgeons on the admission of patients.

§ 12. Whenever cases occur, attended with circumstances not heretofore observed, or in which the ordinary modes of practice have been attempted without success, it is for the public good, and in an especial degree advantageous to the poor, (who, being the most numerous class of society, are the greatest beneficiaries of the healing art,) that new remedies and new methods of Chirurgical treatment should be devised. But in the accomplishment of this salutary purpose the gentlemen of the Faculty should be scrupulously and conscientiously governed by sound reason, just analogy, or well authenticated facts. And no such trials should be instituted without a previous consultation of the Physicians or Surgeons, according to the nature of the case.

§ 13. To advance professional improvement, a friendly and unreserved intercourse should subsist

between the gentlemen of the Faculty, with a free communication of whatever is extraordinary or interesting in the course of their hospital practice. And an account of every case or operation, which is rare, curious, or instructive, should be drawn up by the Physician or Surgeon to whose charge it devolves, and entered in a register kept for the purpose, but open only to the Physicians and Surgeons of the charity.

§ 14. Hospital registers usually contain only a simple report of the number of patients admitted and discharged. By adopting a more comprehensive plan they might be rendered subservient to Medical science and beneficial to mankind. The following sketch is offered with deference to the gentlemen of the Faculty. Let the register consist of three tables: the first specifying the number of patients admitted, cured, relieved, discharged, or dead; the second, the several diseases of the patients, with their events; the third, the sexes, ages, and occupations of the patients. The ages should be reduced into classes; and the tables adapted to the four divisions of the year. By such an institution, the increase or decrease of sickness; the attack, progress, and cessation of epidemics; the comparative healthiness of different situations, climates, and seasons; the influence of particular

trades and manufactures on health and life; with many other curious circumstances, not more interesting to Physicians than to the community, would be ascertained with sufficient precision.

§ 15. By the adoption of the register recommended in the foregoing article, Physicians and Surgeons would obtain a clearer insight into the comparative success of their hospital and private practice; and would be incited to a diligent investigation of the causes of such difference. In particular diseases it will be found to subsist in a very remarkable degree: and the discretionary power of the Physician or Surgeon in the admission of patients, could not be exerted with more justice or humanity, than in refusing to consign to lingering suffering and almost certain death a numerous class of patients, inadvertently recommended as objects of these charitable institutions. "In judging of diseases with regard to the propriety of their reception into hospitals," says an excellent writer, "the following general circumstances are to be considered:—

"Whether they be capable of speedy relief; because, as it is the intention of charity to relieve as great a number as possible, a quick change of objects is to be wished; and also because the inbred disease of hospitals will almost inevitably creep in some degree upon one who continues a long time

in them, but will rarely attack one whose stay is short.

"Whether they require in a particular manner the superintendence of skilful persons, either on account of their acute and dangerous nature, or any singularity or intricacy attending them, or erroneous opinions prevailing among the common people concerning their treatment. . . . . .

"Whether they be contagious, or subject in a peculiar degree to corrupt the air and generate pestilential diseases. . . . . .

"Whether a fresh and pure air be peculiarly requisite for their cure, and they be remarkably injured by any vitiation of it[a]."

§ 16. But no precautions relative to the reception of patients who labour under maladies incapable of relief, contagious in their nature, or liable to be aggravated by confinement in an impure atmosphere, can obviate the evils arising from close wards, and the false economy of crowding a number of persons into the least possible space. There are inbred diseases which it is the duty of the Physician or Surgeon to prevent, as far as lies in his power, by a strict and persevering attention to the whole medical polity of the hospital. This comprehends the discrimination of cases ad-

[a] See Aikin's *Thoughts on Hospitals*, p. 21.

missible, air, diet, cleanliness, and drugs; each of which articles should be subjected to a rigid scrutiny at stated periods of time.

§ 17. The establishment of a committee of the gentlemen of the Faculty, to be held monthly, would tend to facilitate this interesting investigation, and to accomplish the most important objects of it. By the free communication of remarks, various improvements would be suggested; by the regular discussion of them, they would be reduced to a definite and consistent form; and by the authority of united suffrages, they would have full influence over the governors of the charity. The exertions of individuals, however benevolent or judicious, often give rise to jealousy, are opposed by those who have not been consulted, and prove inefficient by wanting the collective energy of numbers.

§ 18. The harmonious intercourse which has been recommended to the gentlemen of the Faculty will naturally produce frequent consultations, viz. of the Physicians on Medical cases, of the Surgeons on Chirurgical cases, and of both united in cases of a compound nature, which, falling under the department of each, may admit of elucidation by the reciprocal aid of the two professions.

§ 19. In consultations on Medical cases the junior Physician present should deliver his opinion

first, and the others in the progressive order of their seniority. The same order should be observed in Chirurgical cases; and a majority should be decisive in both: but if the numbers be equal, the decision should rest with the Physician or Surgeon under whose care the patient is placed. No decision, however, should restrain the acting practitioner from making such variations in the mode of treatment, as future contingences may require, or a farther insight into the nature of the disorder may shew to be expedient.

§ 20. In consultations on mixed cases the junior Surgeon should deliver his opinion first, and his brethren afterwards in succession, according to progressive seniority. The junior Physician present should deliver his opinion after the senior Surgeon, and the other Physicians in the order above prescribed.

§ 21. In every consultation the case to be considered should be concisely stated by the Physician or Surgeon who requests the aid of his brethren. The opinions relative to it should be delivered with brevity, agreeably to the preceding arrangement, and the decisions collected in the same order. The order of seniority among the Physicians and Surgeons may be regulated by the dates of their respective appointments in the hospital.

§ 22. Due notice should be given of a consultation, and no person admitted to it except the Physicians and Surgeons of the hospital, and the House-Surgeon, without the unanimous consent of the gentlemen present. If an examination of the patient be previously necessary, the particular circumstances of danger or difficulty should be carefully concealed from him, and every just precaution used to guard him from anxiety or alarm.

§ 23. No important operation should be determined upon, without a consultation of the Physicians and Surgeons, and the acquiescence of a majority of them. Twenty-four hours notice should be given of the proposed operation, except in dangerous accidents, or when peculiar circumstances occur which may render delay hazardous. The presence of a spectator should not be allowed during an operation, without the express permission of the operator. All extra-official interference in the management of it should be forbidden. A decorous silence ought to be observed It may be humane and salutary, however, for one of the attending Physicians or Surgeons to speak occasionally to the patient, to comfort him under his sufferings, and to give him assurance (if consistent with truth,) that the operation goes on well, and promises a speedy and successful termination[b].

[b] The substance of the five preceding articles (§§ 19—23) was

As a hospital is the best school for practical Surgery, it would be liberal and beneficial to invite in rotation two Surgeons of the town, who do not belong to the institution, to be present at each operation.

§ 24. Hospital consultations ought not to be held on Sundays, except in cases of urgent necessity; and on such occasions an hour should be appointed which does not interfere with attendance on public worship.

§ 25. It is an established usage in some hospitals to have a stated day in the week for the performance of operations. But this may occasion improper delay, or equally unjustifiable anticipation. When several operations are to take place in succession, one patient should not have his mind agitated by the knowledge of the sufferings of another. The Surgeon should change his apron, when besmeared; and the table or instruments should be freed from all marks of blood, and every thing that may excite terror.

§ 26. Dispensaries afford the widest sphere for the treatment of diseases, comprehending not only such as ordinarily occur, but those which are so

suggested by Dr. Ferriar and Mr. Simmons, at the time when I was desired by them and my other colleagues to frame a code of rules for the Manchester Infirmary. The additions now made are intended to adapt them to general use.

infectious, malignant, and fatal, as to be excluded from admission into infirmaries. Happily also they neither tend to counteract that spirit of independence which should be sedulously fostered in the poor, nor to preclude the practical exercise of those relative duties, "the charities of father, son, and brother," which constitute the strongest moral bonds of society. Being institutions less splendid and expensive than hospitals, they are well adapted to towns of moderate size; and might even be established without difficulty in populous country districts. Physicians and Surgeons in such situations have generally great influence; and it would be truly honourable to exert it in a cause subservient to the interests of Medical science, of commerce, and of philanthropy.

The duties which devolve on gentlemen of the Faculty engaged in the conduct of Dispensaries, are so nearly similar to those of hospital Physicians and Surgeons, as to be comprehended under the same professional and moral rules. But greater authority and greater condescension will be found requisite in domestic attendance on the poor; and human nature must be intimately studied, to acquire that full ascendancy over the prejudices, the caprices, and the passions of the sick and of their relatives, which is essential to Medical success.

§ 27. Hospitals appropriated to particular maladies are established in different places, and claim both the patronage and the aid of the gentlemen of the Faculty. To an asylum for female patients labouring under syphilis it is to be lamented that discouragements have been too often and successfully opposed. Yet whoever reflects on the variety of diseases to which the human body is incident, will find that a considerable part of them are derived from immoderate passions and vicious indulgences. Sloth, intemperance, and irregular desires are the great sources of those evils which contract the duration and imbitter the enjoyment of life. But humanity, whilst she bewails the vices of mankind, incites us to alleviate the miseries which flow from them. And it may be proved that a Lock Hospital is an institution founded on the most benevolent principles, consonant to sound policy, and favourable to reformation and to virtue. It provides relief for a painful and loathsome distemper, which contaminates in its progress the innocent as well as the guilty, and extends its baneful influence to future generations. It restores to virtue and to religion those votaries whom pleasure has seduced or villany betrayed, and who now feel by sad experience that ruin, misery, and disgrace are the wages of sin. Over such objects pity sheds the generous tear, aus-

terity softens into forgiveness, and benevolence expands at the united pleas of frailty, penitence, and wretchedness[c].

No peculiar rules of conduct are requisite in the Medical attendance on Lock Hospitals: but, as these institutions must from the nature of their object be in a great measure shut from the inspection of the public, it will behove the Faculty to consider themselves as responsible in an extraordinary degree for their right government; that the moral, no less than the Medical purposes of such establishments may be fully answered. The strictest decorum should be observed in the conduct towards the female patients; no young pupils should be admitted into the house; every ministering office should be performed by nurses properly instructed; and books adapted to the moral improvement of the patients should be put into their hands, and given them on their discharge. To provide against the danger of urgent want, a small sum of money and decent clothes should at this time be dispensed to them; and, when practicable, some mode should be pointed out of obtaining a reputable livelihood.

[c] See two Reports, intended to promote the establishment of a Lock Hospital at Manchester, in the year 1774, inserted in the Author's *Essays Medical, Philosophical, and Experimental*, vol. ii. p. 263. (*Works*, vol. iv. p. 203.)

§ 28. Asylums for insanity possess accommodations and advantages, of which the poor must in all circumstances be destitute; and which no private family, however opulent, can provide. Of these schemes of benevolence all classes of men may have equal occasion to participate the benefits; for human nature itself becomes the mournful object of such institutions. Other diseases leave man a rational and moral agent, and sometimes improve both the faculties of the head and the affections of the heart. But lunacy subverts the whole rational and moral character, extinguishes every tender charity, and excludes the degraded sufferer from all the enjoyments and advantages of social intercourse. Painful is the office of a Physician, when he is called upon to minister to such humiliating objects of distress; yet great must be his felicity, when he can render himself instrumental, under Providence, in the restoration of reason and in the renewal of the lost image of GOD. Let no one, however, promise himself this divine privilege, if he be not deeply skilled in the philosophy of human nature; for, though casual success may sometimes be the result of empirical practice, the *medicina mentis* can only be administered with steady efficacy by him, who, to a knowledge of the animal economy and of the physical causes which regulate or disturb its movements, unites an inti-

mate acquaintance with the laws of association, the control of fancy over judgement, the force of habit, the direction and comparative strength of opposite passions, and the reciprocal dependences and relations of the moral and intellectual powers of man.

§ 29. Even thus qualified with the pre-requisite attainments, the Physician will find that he has a new region of Medical science to explore; for it is a circumstance to be regretted both by the Faculty and the public, that the various diseases which are classed under the title of insanity remain less understood than any others with which mankind are visited. Hospital institutions furnish the best means of acquiring more accurate knowledge of their causes, nature, and cure; but this information cannot be attained, to any satisfactory extent, by the ordinary attention to single and unconnected cases. The synthetic plan should be adopted; and a regular journal should be kept of every species of the malady which occurs, arranged under proper heads, with a full detail of its rise, progress, and termination; of the remedies administered, and of their effects in its several stages. The age, sex, occupation, mode of life, and (if possible,) hereditary constitution of each patient should be noted; and, when the event proves fatal, the brain and other organs

affected should be carefully examined, and the appearances on dissection minutely inserted in the journal. A register like this in the course of a few years would afford the most interesting and authentic documents, the want of which on a late melancholy occasion[d] was felt and regretted by the whole kingdom.

§ 30. Lunatics are in a great measure secluded from the observation of those who are interested in their good treatment; and their complaints of ill-usage are so often false or fanciful, as to obtain little credit or attention, even when well founded. The Physician, therefore, must feel himself under the strictest obligation of honour, as well as of humanity, to secure to these unhappy sufferers all the tenderness and indulgence compatible with steady and effectual government.

§ 31. Certain cases of mania seem to require a boldness of practice, which a young Physician of sensibility may feel a reluctance to adopt. On such occasions he must not yield to timidity, but fortify his mind by the counsels of his more experienced brethren of the Faculty. Yet, with this aid, it is more consonant to probity to err on the side of caution than of temerity[e].

[d] [Alluding to the case of George III.]
[e] See Notes and Illustrations, No. I.

Hospitals for the small-pox, for inoculation, for cancers, &c. &c., are established in different places; but require no professional duties, which are not included under, or deducible from, the precepts already delivered.

CHAPTER II.

Of Professional Conduct in Private or General Practice.

§ 1. The moral rules of conduct prescribed towards hospital patients should be fully adopted in private or general practice. Every case committed to the charge of a Physician or Surgeon should be treated with attention, steadiness, and humanity; reasonable indulgence should be granted to the mental imbecility and caprices of the sick; secrecy and delicacy, when required by peculiar circumstances, should be strictly observed; and the familiar and confidential intercourse, to which the Faculty are admitted in their professional visits, should be used with discretion, and with the most scrupulous regard to fidelity and honour.

§ 2. The strictest temperance should be deemed incumbent on the Faculty; as the practice both of Physic and Surgery at all times requires the exercise of a clear and vigorous understanding:

and on emergencies, for which no professional man should be unprepared, a steady hand, an acute eye, and an unclouded head, may be essential to the well-being, and even to the life, of a fellow-creature. Philip of Macedon reposed with entire security on the vigilance and attention of his general Parmenio. In his hours of mirth and conviviality he was wont to say, "Let us drink, my friends; we may do it with safety, for Parmenio never drinks!" The moral of this story is sufficiently obvious when applied to the Faculty; but it should certainly be construed with great limitation by their patients[a].

§ 3. A Physician should not be forward to make gloomy prognostications; because they savour of empiricism, by magnifying the importance of his services in the treatment or cure of the disease. But he should not fail on proper occasions to give to the friends of the patient timely notice of danger when it really occurs, and even to the patient himself, if absolutely necessary. This office, however, is so peculiarly alarming when executed by him, that it ought to be declined whenever it can be assigned to any other person of sufficient judgement and delicacy; for the Physician should be the minister of hope and comfort to the sick, that

[a] See Notes and Illustrations, No. II.

by such cordials to the drooping spirit he may smooth the bed of death, revive expiring life, and counteract the depressing influence of those maladies, which rob the philosopher of fortitude, and the Christian of consolation[b].

§ 4. Officious interference in a case under the charge of another should be carefully avoided. No meddling enquiries should be made concerning the patient, no unnecessary hints given relative to the nature or treatment of his disorder, nor any selfish conduct pursued, that may directly or indirectly tend to diminish the trust reposed in the Physician or Surgeon employed. Yet, though the character of a professional busy-body, whether from thoughtlessness or craft, is highly reprehensible, there are occasions which not only justify, but require, a spirited interposition. When artful ignorance grossly imposes on credulity, when neglect puts to hazard an important life, or rashness threatens it with still more imminent danger, a Medical neighbour, friend, or relative, apprized of such facts, will justly regard his interference as a duty. But he ought to be careful that the information on which he acts is well founded, that his motives are pure and honourable, and that his judgement of the measures pursued is built on experience and prac-

[b] See Notes and Illustrations, No. III.

tical knowledge, not on speculative or theoretical differences of opinion. The particular circumstances of the case will suggest the most proper mode of conduct. In general, however, a personal and confidential application to the gentleman of the Faculty concerned, should be the first step taken, and afterwards, if necessary, the transaction may be communicated to the patient or to his family.

§ 5. When a Physician or Surgeon is called to a patient who has been before under the care of another gentleman of the Faculty, a consultation with him should be proposed, even though he may have discontinued his visits. His practice also should be treated with candour, and justified, so far as probity and truth will permit: for the want of success in the primary treatment of a case is no impeachment of professional skill or knowledge; and it often serves to throw light on the nature of a disease, and to suggest to the subsequent practitioner more appropriate means of relief[c].

§ 6. In large and opulent towns the distinction between the provinces of Physic and Surgery should be steadily maintained. This distinction is sanctioned both by reason and experience. It is founded on the nature and objects of the two pro-

[c] See Notes and Illustrations, No. IV.

fessions; on the education and acquirements requisite for their most beneficial and honourable exercise; and tends to promote the complete cultivation and advancement of each. For the division of skill and labour is no less advantageous in the liberal than in the mechanic arts; and both Physic and Surgery are so comprehensive, and yet so far from perfection, as separately to give full scope to the industry and genius of their respective professors. Experience has fully evinced the benefits of the discrimination recommended, which is established in every well regulated hospital, and is thus expressly authorized by the Faculty themselves, and by those who have the best opportunities of judging of the proper application of the healing art. No Physician or Surgeon, therefore, should adopt more than one denomination, or assume any rank or privileges different from those of his order.

§ 7. Consultations should be promoted in difficult or protracted cases, as they give rise to confidence, energy, and more enlarged views in practice. On such occasions no rivalship or jealousy should be indulged: candour, probity, and all due respect should be exercised towards the Physician or Surgeon first engaged; and, as he may be presumed to be best acquainted with the patient and with his family, he should deliver all the medical

directions agreed upon, though he may not have precedency in seniority or rank. It should be the province, however, of the senior Physician, first to propose the necessary questions to the sick, but without excluding his associate from the privilege of making farther enquiries, to satisfy himself, or to elucidate the case.

§ 8. As circumstances sometimes occur to render a special consultation desirable, when the continued attendance of another Physician or Surgeon might be objectionable to the patient, the gentleman of the Faculty whose assistance is required, in such cases, should pay only two or three visits, and sedulously guard against all future unsolicited interference. For this consultation a double gratuity may reasonably be expected from the patient, as it will be found to require an extraordinary portion both of time and attention.

In Medical practice it is not an unfrequent occurrence, that a Physician is hastily summoned, through the anxiety of the family or the solicitation of friends, to visit a patient who is under the regular direction of another Physician, to whom notice of this call has not been given. Under such circumstances no change in the treatment of the sick person should be made, till a previous consultation with the stated Physician has taken place, unless the lateness of the hour precludes meeting,

or the symptoms of the case are too pressing to admit of delay.

§ 9. Theoretical discussions should be avoided in consultations, as occasioning perplexity and loss of time; for there may be much diversity of opinion concerning speculative points, with perfect agreement in those modes of practice which are founded not on hypothesis, but on experience and observation[d].

§ 10. The rules prescribed for hospital consultations may be adopted in private or general practice[e]. And the seniority of a Physician may be determined by the period of his public and acknowledged practice as a Physician, and that of a Surgeon by the period of his practice as a Surgeon, in the place where each resides. This arrangement, being clear and obvious, is adapted to remove all grounds of dispute amongst Medical gentlemen; and it secures the regular continuance of the order of precedency established in every town, which might otherwise be liable to troublesome interruptions by new settlers, perhaps not long stationary.

§ 11. A regular academical education furnishes the only presumptive evidence of professional ability, and is so honourable and beneficial, that it

[d] See Notes and Illustrations, No. V.
[e] See above, chap. i. §§ 19—21.

gives a just claim to pre-eminence among Physicians, in proportion to the degree in which it has been enjoyed and improved. Yet, as it is not indispensably necessary to the attainment of knowledge, skill, and experience, they who have really acquired in a competent measure such qualifications without its advantages, should not be fastidiously excluded from the privileges of fellowship. In consultations especially, as the good of the patient is the sole object in view, and is often dependent on personal confidence, the aid of an (*any* ?) intelligent practitioner ought to be received with candour and politeness, and his advice adopted, if agreeable to sound judgement and truth[f].

§ 12. Punctuality should be observed in the visits of the Faculty, when they are to hold consultation together; but, as this may not always be practicable, the Physician or Surgeon who first arrives at the place of appointment, should wait five minutes for his associate, before his introduction to the patient, that the unnecessary repetition of questions may be avoided. No visits should be made but in concert, or by mutual agreement; no statement or discussion of the case should take place before the patient or his friends, except in the presence of each of the attending gentlemen of

[f] See Notes and Illustrations, No. VI.

the Faculty, and by common consent; and no prognostications should be delivered, which are not the result of previous deliberation and concurrence.

§ 13. Visits to the sick should not be unseasonably repeated; because, when too frequent, they tend to diminish the authority of the Physician, to produce instability in his practice, and to give rise to such occasional indulgences, as are subversive of all Medical regimen.

Sir William Temple has asserted, that "an honest Physician is excused for leaving his patient, when he finds the disease growing desperate, and can, by his attendance, expect only to receive his fees, without any hopes or appearance of deserving them." But this allegation is not well founded; for the offices of a Physician may continue to be highly useful to the patient and comforting to the relatives around him even in the last period of a fatal malady, by obviating despair, by alleviating pain, and by soothing mental anguish. To decline attendance under such circumstances would be sacrificing to fanciful delicacy and mistaken liberality that moral duty which is independent of, and far superior to, all pecuniary appreciation.

§ 14. Whenever a Physician or Surgeon officiates for another who is sick or absent during any considerable length of time, he should receive the fees

accruing from such additional practice; but, if this fraternal act be of short duration, it should be gratuitously performed, with an observance always of the utmost delicacy towards the interest and character of the professional gentleman previously connected with the family.

§ 15. Some general rule should be adopted by the Faculty in every town relative to the pecuniary acknowledgements of their patients; and it should be deemed a point of honour to adhere to this rule with as much steadiness as varying circumstances will admit: for it is obvious that an average fee, as suited to the general rank of patients, must be an inadequate gratuity from the rich, who often require attendance not absolutely necessary, and yet too large to be expected from that class of citizens, who would feel a reluctance in calling for assistance without making some decent and satisfactory retribution.

But in the consideration of fees, let it ever be remembered, that, though mean ones from the affluent are both unjust and degrading, yet the characteristical beneficence of the Profession is inconsistent with sordid views and avaricious rapacity. To a young Physician it is of great importance to have clear and definite ideas of the ends of his Profession, of the means for their attainment, and of the comparative value and dignity

of each. Wealth, rank, and independence, with all the benefits resulting from them, are the primary[g] ends which he holds in view; and they are interesting, wise, and laudable: but knowledge, benevolence, and active virtue, the means to be adopted in their acquisition, are of still higher estimation; and he has the privilege and felicity of practising an art, even more intrinsically excellent in its mediate than in its ultimate objects. The former, therefore, have a claim to uniform pre-eminence[h].

§ 16. All members of the Profession (including Apothecaries, as well as Physicians and Surgeons,) together with their wives and children, should be attended gratuitously by any one or more of the Faculty residing near them whose assistance may be required; for, as solicitude obscures the judgement, and is accompanied with timidity and irresolution, Medical men, under the pressure of sickness, either as affecting themselves or their families, are peculiarly dependent upon each other. But visits should not be obtruded officiously; as such unasked civility may give rise to embarrassment, or interfere with that choice on which confidence depends. Distant members of the Faculty, when they request attendance, should

[g] [The word *primary* is omitted in ed. 1807.]
[h] See Notes and Illustrations, No. VII.

be expected to defray the charges of travelling; and, if their circumstances be affluent, a pecuniary acknowledgement should not be declined: for no obligation ought to be imposed, which the party would rather compensate than contract.

§ 17. When a Physician attends the wife or child of a member of the Faculty, or any person very nearly connected with him, he should manifest peculiar attention to his opinions, and tenderness even to his prejudices. For the dear and important interests which the one has at stake, supersede every consideration of rank or seniority in the other; since the mind of a husband, a father, or a friend, may receive a deep and lasting wound, if the disease terminate fatally, from the adoption of means he could not approve, or the rejection of those he wished to be tried. Under such delicate circumstances, however, a conscientious Physician will not lightly sacrifice his judgement; but will urge with proper confidence the measures he deems to be expedient, before he leaves the final decision concerning them to his more responsible coadjutor.

§ 18. Clergymen who experience the "res angusta domi" should be visited gratuitously by the Faculty. And this exemption should be an acknowledged general rule, that the feeling of individual obligation may be rendered less oppressive. But such of the clergy as are qualified

either from their stipends or fortunes to make a reasonable remuneration for Medical attendance, are not more privileged than any other order of patients. Military or naval subaltern officers in narrow circumstances are also proper objects of professional liberality.

§ 19. As the first consultation by letter imposes much more trouble and attention than a personal visit, it is reasonable on such an occasion to expect a gratuity of double the usual amount: and this has long been the established practice of many respectable Physicians. But a subsequent epistolary correspondence on the further treatment of the same disorder may justly be regarded in the light of ordinary attendance, and may be compensated as such according to the circumstances of the case or of the patient.

§ 20. Physicians and Surgeons are occasionally requested to furnish certificates, justifying the absence of persons who hold situations of honour and trust in the army, the navy, or the civil departments of government. These testimonials, unless under particular circumstances, should be considered as acts due to the public, and therefore not to be compensated by any gratuity. But they should never be given without an accurate and faithful scrutiny into the case; that truth and probity may not be violated, nor the good of the

community injured, by the unjust pretences of its servants. The same conduct is to be observed by Medical practitioners when they are solicited to furnish apologies for non-attendance on juries, or to state the valetudinary incapacity of persons appointed to execute the business of constables, church-wardens, or overseers of the poor. No fear of giving umbrage, no view to present or future emolument, nor any motives of friendship, should incite to a false, or even dubious declaration; for the general weal requires that every individual who is properly qualified should deem himself obliged to execute, when legally called upon, the juridical and municipal employments of the body politic; and to be accessory by untruth or prevarication to the evasion of this duty, is at once a high misdemeanour against social order, and a breach of moral and professional honour.

§ 21. The use of quack medicines should be discouraged by the Faculty, as disgraceful to the Profession, injurious to health, and often destructive even of life. Patients, however, under lingering disorders, are sometimes obstinately bent on having recourse to such as they see advertised or hear recommended with a boldness and confidence which no intelligent Physician dares to adopt with respect to the means that he prescribes. In these

cases, some indulgence seems to be required to a credulity that is insurmountable; and the patient should neither incur the displeasure of the Physician, nor be entirely deserted by him. He may be apprized of the fallacy of his expectations, whilst assured at the same time that diligent attention should be paid to the process of the experiment he is so unadvisedly making on himself, and the consequent mischiefs, if any, obviated as timely as possible. Certain active preparations, the nature, composition, and effects of which are well known, ought not to be proscribed as quack medicines.

§ 22. No Physician or Surgeon should dispense a secret nostrum, whether it be his invention, or exclusive property; for, if it be of real efficacy, the concealment of it is inconsistent with beneficence and professional liberality; and if mystery alone give it value and importance, such craft implies either disgraceful ignorance or fraudulent avarice.

§ 23. The *esprit du corps* is a principle of action founded in human nature, and, when duly regulated, is both rational and laudable. Every man who enters into a fraternity engages by a tacit compact not only to submit to the laws, but to promote the honour and interest, of the association, so far as they are consistent with morality and the general good of mankind. A Physician,

therefore, should cautiously guard against whatever may injure the general respectability of his Profession; and should avoid all contumelious representations of the Faculty at large, all general charges against their selfishness or improbity, and the indulgence of an affected or jocular scepticism concerning the efficacy and utility of the healing art.

§ 24. As diversity of opinion and opposition of interest may in the Medical, as in other professions, sometimes occasion controversy and even contention; whenever such cases unfortunately occur, and cannot be immediately terminated, they should be referred to the arbitration of a sufficient number of Physicians or of Surgeons, according to the nature of the dispute; or to the two orders collectively, if belonging both to Medicine and Surgery. But neither the subject matter of such references, nor the adjudication, should be communicated to the public; as they may be personally injurious to the individuals concerned, and can hardly fail to hurt the general credit of the Faculty.

§ 25. A wealthy Physician should not give advice gratis to the affluent, because it is an injury to his professional brethren. The office of Physician can never be supported but as a lucrative one, and it is defrauding in some degree the

common funds for its support, when fees are dispensed with, which might justly be claimed.

§ 26. It frequently happens that a Physician, in his incidental communications with the patients of other Physicians or with their friends, may have their cases stated to him in so direct a manner, as not to admit of his declining to pay attention to them. Under such circumstances his observations should be delivered with the most delicate propriety and reserve: he should not interfere in the curative plans pursued, and should even recommend a steady adherence to them, if they appear to merit approbation.

§ 27. A Physician, when visiting a sick person in the country, may be desired to see a neighbouring patient who is under the regular direction of another Physician, in consequence of some sudden change or aggravation of symptoms. The conduct to be pursued on such an occasion is to give advice adapted to present circumstances, to interfere no farther than is absolutely necessary with the general plan of treatment, to assume no future direction unless it be expressly desired, and, in this case, to request an immediate consultation with the practitioner antecedently employed.

§ 28. At the close of every interesting and important case (especially when it hath terminated fatally,) a Physician should trace back in calm reflec-

tion all the steps which he had [*has?*] taken in the treatment of it. This review of the origin, progress, and conclusion of the malady, of the whole curative plan pursued, and of the particular operation of the several remedies employed, as well as of the doses and periods of time in which they were administered, will furnish the most authentic documents on which individual experience can be formed. But it is in a moral view that the practice is here recommended; and it should be performed with the most scrupulous impartiality. Let no self-deception be permitted in the retrospect; and, if errors either of omission or commission are discovered, it behoves that they should be brought fairly and fully to the mental view. Regrets may follow, but criminality will thus be obviated; for good intentions, and the imperfection of human skill which cannot anticipate the knowledge that events alone disclose, will sufficiently justify what is past, provided the failure be made conscientiously subservient to future wisdom and rectitude in professional conduct.

§ 29. The opportunities which a Physician not unfrequently enjoys, of promoting and strengthening the good resolutions of his patients suffering under the consequences of vicious conduct, ought never to be neglected. And his counsels, or even remonstrances, will give satisfaction, not disgust,

if they be conducted with politeness, and evince a genuine love of virtue, accompanied by a sincere interest in the welfare of the person to whom they are addressed.

§ 30. The observance of the Sabbath is a duty to which Medical men are bound, so far as is compatible with the urgency of the cases under their charge. Visits may often be made with sufficient convenience and benefit, either before the hours of going to church, or during the intervals of public worship; and in many chronic ailments the sick, together with their attendants, are qualified to participate in the social offices of religion, and should not be induced to forego this important privilege by the expectation of a call from their Physician or Surgeon[1].

§ 31. A Physician who is advancing in years, yet unconscious of any decay in his faculties, may occasionally experience some change in the wonted confidence of his friends. Patients, who before trusted solely to his care and skill, may now request that he will join in consultation, perhaps with a younger coadjutor. It behoves him to admit this change without dissatisfaction or fastidiousness, regarding it as no mark of disrespect, but as the exercise of a just and reasonable privilege in those by whom he is employed. The

[1] See Notes and Illustrations, No. VIII.

junior practitioner may well be supposed to have more ardour than *he* possesses in the treatment of diseases, to be bolder in the exhibition of new medicines, and disposed to administer old ones in doses of greater efficacy. And this union of enterprise with caution, and of fervour with coolness, may promote the successful management of a difficult and protracted case. Let the Medical parties, therefore, be studious to conduct themselves towards each other with candour and impartiality; co-operating by mutual concessions in the benevolent discharge of professional duty [k].

§ 32. The commencement of that period of senescence, when it becomes incumbent on a Physician to decline the offices of his profession, it is not easy to ascertain; and the decision on so nice a point must be left to the moral discretion of the individual. For, one grown old in the useful and honourable exercise of the healing art, may continue to enjoy, and justly to enjoy, the unabated confidence of the public; and, whilst exempt in a considerable degree from the privations and infirmities of age, he is under indispensable obligations to apply his knowledge and experience in the most efficient way to the benefit of mankind: for the possession of powers is a clear indication of the will of our Creator concerning their prac-

[k] See Notes and Illustrations, No. IX.

tical direction. But in the ordinary course of nature the bodily and mental vigour must be expected to decay progressively, though perhaps slowly, after the meridian of life is past. As age advances, therefore, a Physician should from time to time scrutinize impartially the state of his faculties, that he may determine *bona fide* the precise degree in which he is qualified to execute the active and multifarious offices of his profession; and, whenever he becomes conscious that his memory presents to him with faintness those analogies on which Medical reasoning and the treatment of diseases are founded, that diffidence of the measures to be pursued perplexes his judgment, that, from a deficiency in the acuteness of his senses, he finds himself less able to distinguish signs or to prognosticate events, he should at once resolve (though others perceive not the changes which have taken place,) to sacrifice every consideration of fame or fortune, and to retire from the engagements of business. To the Surgeon under similar circumstances this rule of conduct is still more necessary; for the energy of the understanding often subsists much longer than the quickness of eye-sight, delicacy of touch, and steadiness of hand, which are essential to the skilful performance of operations. Let both the Physician and Surgeon never forget that their

professions are public trusts, properly rendered lucrative whilst they fulfil them, but which they are bound by honour and probity to relinquish as soon as they find themselves unequal to their adequate and faithful execution.

CHAPTER III.

Of the Conduct of Physicians towards Apothecaries.

§ 1. In the present state of Physic in this country, where the Profession is properly divided into three distinct branches, a connection peculiarly intimate subsists between the Physician and the Apothecary; and various obligations necessarily result from it. On the knowledge, skill, and fidelity of the Apothecary depend in a very considerable degree the reputation, the success, and usefulness of the Physician. As these qualities, therefore, justly claim his attention and encouragement, the possessor of them merits his respect and patronage.

§ 2. The Apothecary is in almost every instance the precursor of the Physician; and, being acquainted with the rise and progress of the disease, with the hereditary constitution, habits, and disposition of the patient, he may furnish very important information. It is in general therefore expe-

dient (and, when health or life are at stake, expediency becomes a moral duty,) to confer with the Apothecary before any decisive plan of treatment is adopted, to hear his account of the malady, of the remedies which have been administered, of the effects produced by them, and of his whole experience concerning the *juvantia* and *laedentia* in the case. Nor should the future attendance of the Apothecary be superseded by the Physician; for, if he be a man of honour, judgement, and propriety of behaviour, he will be a most valuable auxiliary through the whole course of the disorder, by his attention to varying symptoms, by the enforcement of Medical directions, by obviating misapprehensions in the patient or his family, by strengthening the authority of the Physician, and by being at all times an easy and friendly medium of communication. To subserve these important purposes, the Physician should occasionally make his visits in conjunction with the Apothecary, and regulate by circumstances the frequency of such interviews; for, if they be often repeated, little substantial aid can be expected from the Apothecary, because he will have no intelligence to offer which does not fall under the observation of the Physician himself, nor any opportunity of executing his peculiar trust, without becoming burdensome to the patient by multiplied calls and unseasonable assiduity.

§ 3. This amicable intercourse and co-operation of the Physician and Apothecary, if conducted with the decorum and attention to etiquette which should always be steadily observed by professional men, will add to the authority of the one, to the respectability of the other, and to the usefulness of both. The patient will find himself the object of watchful and unremitting care, and will experience that he is connected with his Physician, not only personally, but by a sedulous representative and coadjutor. The Apothecary will regard the free communication of the Physician as a privilege and mean of improvement, he will have a deeper interest in the success of the curative plans pursued, and his honour and reputation will be directly involved in the purity and excellence of the medicines dispensed, and in the skill and care with which they are compounded.

§ 4. The duty and responsibility of the Physician, however, are so intimately connected with these points, that no dependence on the probity of the Apothecary should prevent the occasional inspection of the drugs which he prescribes. In London the law not only authorizes, but enjoins, a stated examination of the simple and compound medicines kept in the shops; and the policy that is just and reasonable in the metropolis, must be proportionably so in every provincial town through-

out the kingdom. Nor will any respectable Apothecary object to this necessary office, when performed with delicacy and at seasonable times; since his reputation and emolument will be increased by it, probably in the exact ratio, thus ascertained, of professional merit and integrity.

§ 5. A Physician called to visit a patient in the country, should not only be minute in his directions, but should communicate to the Apothecary the particular view which he takes of the case; that the indications of cure may be afterwards pursued with precision and steadiness, and that the Apothecary may use the discretionary power committed to him, with as little deviation as possible from the general plan prescribed. To so valuable a class of men as the country Apothecaries great attention and respect is due; and, as they are the guardians of health through large districts, no opportunities should be neglected of promoting their improvement, or contributing to their stock of knowledge, either by the loan of books, the direction of their studies, or by unreserved information on Medical subjects. When such occasions present themselves, the maxim of our judicious poet[a] is strictly true,

"The worst avarice is that of sense;"

for practical improvements usually originate in

[a] [Pope's *Essay on Criticism*, pt. iii.]

towns, and often remain unknown or disregarded in situations where gentlemen of the Faculty have little intercourse, and where sufficient authority is wanting to sanction innovation.

§ 6. It has been observed by a political and moral writer of great authority[b], that "Apothecaries' profit is become a bye-word, denoting something uncommonly extravagant. This great apparent profit, however, is frequently no more than the reasonable wages of labour. The skill of an Apothecary is a much nicer and more delicate matter than that of any artificer whatever, and the trust which is reposed in him is of much greater importance. He is the Physician of the poor in all cases, and of the rich when the distress or danger is not very great. His reward therefore ought to be suitable to his skill and his trust, and it arises generally from the price at which he sells his drugs. But the whole drugs which the best employed Apothecary in a large market town will sell in a year, may not perhaps cost him above thirty or forty pounds. Though he should sell them, therefore, for three or four hundred, or at a thousand per cent. profit, this may frequently be no more than the reasonable wages of his labour, charged, in the only way in which he can charge them, upon the price of his drugs." The

[b] See Adam Smith's *Wealth of Nations*, bk. i. ch. 10. pt. 1.

statement here given exeeeds the emoluments of the generality of Apothecaries in country districts. And a Physician, who knows the education, skill, and persevering attention, as well as the sacrifice of ease, health, and sometimes even of life, which this profession requires, should regard it as a duty not to withdraw from those who exercise it any sources of reasonable profit, or the honourable means of advancement in fortune. Two practices prevail in some places injurious to the interest of this branch of the Faculty, and which ought to be discouraged: one consists in suffering prescriptions to be sent to the druggist, for the sake of a small saving in expense; the other in receiving an annual stipend (usually degrading in its amount, and in the services it imposes,) for being consulted on the slighter indispositions to which all families are incident, and which properly fall within the province of the Apothecary.

§ 7. Physicians are sometimes requested to visit the patients of the Apothecary in his absence. Compliance in such cases should always be refused, when it is likely to interfere with the consultation of the Medical gentleman ordinarily employed by the sick person or his family. Indeed this practice is so liable to abuse, and requires in its exercise so much caution and delicacy, that

it would be for the interest and honour of the Faculty to have it altogether interdicted. Physicians are the only proper substitutes for Physicians, Surgeons for Surgeons, and Apothecaries for Apothecaries.

§ 8. When the aid of a Physician is required, the Apothecary to the family is frequently called upon to recommend one. It will then behove him to learn fully whether the patient or his friends have any preference or partiality; and this he ought to consult, if it lead not to an improper choice; for the maxim of Celsus is strictly applicable on such an occasion, "Ubi par scientia, melior est amicus medicus quam extraneus[c]." But if the parties concerned be entirely indifferent, the Apothecary is bound to decide according to his best judgement, with a conscientious and exclusive regard to the good of the person for whom he is commissioned to act. It is not even sufficient that he selects the person on whom in sickness he reposes his own trust; for in this case friendship justly gives preponderancy, because it may be supposed to excite a degree of zeal and attention, which might overbalance superior science or abilities. Without favour or regard to any personal,

[c] ["Ideoque [conjicio], cum par scientia sit, utiliorem tamen medicum esse amicum, quam extraneum." Cels. *De Medic.* i. praef.]

family, or professional connections, he should recommend the Physician whom he conscientiously believes, all circumstances considered, to be best qualified to accomplish the recovery of the patient.

§ 9. In the county of Norfolk, and in the city of London, benevolent institutions have been lately formed, for providing funds to relieve the widows and children of Apothecaries, and occasionally also members of the Profession who become indigent[d]. Such schemes merit the sanction and encouragement of every liberal Physician and Surgeon; and were they thus extended, their usefulness would be greatly increased, and their permanency almost with certainty secured. Medical subscribers from every part of Great Britain should be admitted, if they offer satisfactory testimonials of their qualifications. One comprehensive establishment seems to be more eligible than many on a smaller scale; for it would be conducted with superior dignity, regularity, and

[d] [Of these Societies (besides several whose benefits are confined to certain counties and districts,) there are in England the four following:—1. "Society for Relief of Widows and Orphans of Medical Men in London and its Vicinity," instituted in 1788; 2. "Medical Benevolent Society for the Relief of its distressed Members," instituted in 1816; 3. "Benevolent Fund of the Provincial Medical and Surgical Association," instituted in 1836, for the relief of distressed Medical Men, and their widows and orphans; and 4. "General Medical Annuity Fund," instituted in 1845, for the relief of distressed members, and their widows and orphans.]

efficiency, with fewer obstacles from interest, prejudice, or rivalship, with considerable saving in the aggregate of time, trouble, and expence, with more accuracy in the calculations relative to its funds, and consequently with the utmost practicable extension of its dividends.

CHAPTER IV.[a]

Of Professional Duties in certain Cases which require a Knowledge of Law.

§ 1. GENTLEMEN of the Faculty of Physic, by the authority of different parliamentary statutes, enjoy an exemption from serving on inquests or juries, from bearing armour, from being constables or church-wardens, and from all burdensome offices, whether leet or parochial[b]. These privileges are founded on reasons highly honourable to Medical men, and should operate as incentives to that diligent and assiduous discharge of professional duty, which the legislature has generously presumed to occupy the time and to employ the talents of Physicians and Surgeons, in some of the most important interests of their fellow-citizens. It is perhaps on account of their being thus ex-

[a] [In this chapter there are numerous statements on different points of law, which after the lapse of nearly half a century are no longer accurate: these, where material, the Editor has endeavoured to correct, chiefly by the assistance of Edward Herford Esq., Coroner of Manchester.]

[b] [See Willcock's *Laws relating to the Medical Profession.*]

cused from many civil functions, that Sir William Blackstone, in his learned "Commentaries," judges the study of the law to be less essential to them, than to any other class of men. He observes, that "there is no special reason why gentlemen of the Faculty of Physic should apply themselves to the study of the law, unless in common with other gentlemen, and to complete the character of general and extensive knowledge; a character which their profession, beyond others, has remarkably deserved[c]." But I apprehend it will be found that Physicians and Surgeons are often called upon to exercise appropriate duties, which require not only a knowledge of the principles of jurisprudence, but of the forms and regulations adopted in our courts of judicature. The truth of this observation will sufficiently appear from the following brief detail of some of the principal cases, in which the science of law is of importance to Medical practitioners. To enter at large on so comprehensive a subject, would far exceed the bounds of the present undertaking.

§ 2.[d] When a Physician attends upon a patient, under circumstances of imminent danger, his counsel may be required about the expediency of a last will and testament. It behoves him therefore

[c] Introd. § 1. vol. i. p. 13.
[d] [See Notes and Illustrations, No. X.]

to know, whether, in case of intestacy, the daughters or younger children of the sick person would be legally entitled to any share of his fortune; whether the fortune would be equally divided, when such equality would be improper or unjust; whether diversity of claims and expensive litigations would ensue, without a will, from the nature of the property in question; and whether the creditors of the defunct would by his neglect be defrauded of their equitable claims. For it is a culpable deficiency in our laws, that real estates are not subject to the payment of debts by simple contract, unless expressly charged with them by the last will and testament of the proprietor[e]; although credit is often founded, as Dr. Paley well observes, on the possession of such estates. This acute moralist adds, "He, therefore, who neglects to make the necessary appointments for the payment of his debts, as far as his effects extend, sins in his grave; and, if he omits this on purpose to defeat the demands of his creditors, he dies with a deliberate fraud in his heart[f]."

Property is divided by the law into two species personal and real; each requiring appropriate modes of transfer or alienation, with which a

[e] [This is no longer the case; as, by 3 & 4 Will. IV. c. 104, freehold and copyhold estates in all cases are made assets for the payment of simple contract as well as specialty debts.]

[f] *Moral and Political Philosophy*, bk. iii. pt. i. ch. 23.

Physician should be well acquainted. It may also be required of him to deliver an opinion, and even a solemn judicial evidence, concerning the capacity of his patient to make a will, a point sometimes of difficult and nice decision; for various disorders obscure, without perverting, the intellectual faculties; and even in delirium itself there are lucid intervals, when the memory and judgement become sufficiently clear, accurate, and vigorous, for the valid execution of a testament. In such cases the will should commence with the signature of the testator, concluding with it also, if his hand be not, after continued mental exertions, too tremulous for subscription; and it should be made with all possible conciseness and expedition [g].

If the patient be surprised by sudden and violent sickness, the law authorizes a *nuncupative will* in the disposal of personalty [h]. But, to guard against fraud, the testamentary words must be delivered with an explicit intention to bequeath; the will must be made at home, or among the tes-

[g] "In the construction of the statute 29 Car. II. c. 3. it has been adjudged that the testator's name, written with his own hand, at the beginning of the will, as, 'I, John Mills, do make this my last will and testament,' is a sufficient signing, without any name at the bottom; though the other is the safer way." See Blackstone's *Comment.*, bk. ii. ch. 23. vol. ii. p. 376. [This is no longer law.]

[h] [Nuncupative wills are now abolished, except in the case of sailors and soldiers in actual service.]

tator's family or friends, unless by unavoidable accident; and also in his last sickness,—for, if he recover, it is evident that time is given for a written will[1].

The law excludes from the privilege of making a will madmen, idiots, persons in their dotage, or those who have stupified their understandings by drunkenness. But there is a high degree of hypochondriacism, which not unfrequently falls under the cognizance of a Physician, and on which he may be required to decide whether it amounts to mental incapacity for the execution of a last will and testament. To define the precise boundaries of rationality is perhaps impossible; if it be true, according to Shakespear[j], that

> "The lunatic, the lover, and the poet
> Are of imagination all compact."

But a partially distempered fancy is known to subsist with general intelligence; and a man, like Mr. Simon Browne, believing the extinction of his rational soul by the judgement of GOD, may uniformly evince in every other instance very distinguished intellectual powers, and be capable of directing his concerns and disposing of his property with sufficient discretion. To preclude one so affected from being a testator, seems incon-

[1] See Blackstone's *Comment.*, bk. ii. ch. 32. vol. ii. p. 501.
[j] [*Midsummer Night's Dream*, act v. sc. 1.]

sistent either with wisdom or justice; especially if the will which has been made, discover in its essential parts no traces of a disturbed imagination or unsound judgement. But, whenever false ideas of a practical kind are so firmly united as to be constantly and invariably mistaken for truth, we properly denominate this unnatural alliance *Insanity;* and, if it give rise to a train of subordinate wrong associations, producing incongruity of behaviour, incapacity for the common duties of life, or unconscious deviations from morality and religion, *Madness* has then its commencement[k].

§ 3. A lunatic, or *non compos mentis*, in the eye of the law, is one who has had understanding, but has lost it by disease, grief, or other accident. The king is the trustee for such unfortunate persons, appointed to protect their property, and to account to them, if they recover, for their revenues; or, after their decease, to their representatives. The Lord Chancellor, therefore, grants a commission to enquire into the state of mind of the insane person; and if he be found *non compos* by a jury, he usually commits the care of his person, with a suitable allowance for his maintenance, to some

[k] See the Author's *Moral and Literary Dissertations*, p. 127 (or *Works*, vol. ii. p. 82); also Notes and Illustrations, No. XI.

friend, who is then called his Committee[1]. The Physician who has been consulted about the case will doubtless be called upon to deliver an opinion concerning his patient; and, before he becomes accessory to his deprivation, as it were, of all legal existence, he will weigh attentively the whole circumstances of the disorder, the original cause of it, the degree in which it subsists, its duration, and probable continuance. For, if the malady be not fixed, great, and permanent, this solemn act of law must be deemed inexpedient, because it cannot be reversed without difficulty; and when insanity has been once formally declared, there may be grounds of apprehension that the party will be consigned to neglect and oblivion. With regard to the waste or alienation of property by the person thus afflicted, little risk is incurred, if he be put under the ordinary restraint of a judicious curator; for, whilst his mind remains in the state of alienation, he is incapable of executing any act with validity; and the next heir, or other person interested, may set it aside, on the plea of his incapacity. But the use of a guardian or committee of a lunatic is chiefly to renew, in his right, under the direction of the court of chancery, any lease for lives or years, and to apply the profits for

[1] Blackstone's *Comment.*, bk. i. ch. 8. vol. i. p. 304.

the benefit of the insane person, of his heirs, or executors.

§ 4. The law justifies the beating of a lunatic, in such manner as the circumstances may require[m]. But it has been before remarked[n], that a Physician who attends an asylum for insanity is under an obligation of honour as well as of humanity, to secure to the unhappy sufferers committed to his charge all the tenderness and indulgence compatible with steady and effectual government; and the strait waistcoat, with other improvements in modern practice, now preclude the necessity of coercion by corporal punishment[o].

§ 5[p]. Houses for the reception of lunatics are subject to strict regulations of law. These regulations refer to the persons keeping such houses, to the admission of patients into them, and to their inspection by visitors, duly authorized and qualified. If any one conceal more than a single lunatic without a licence, he becomes liable to a penalty of five hundred pounds. The licences in the cities of London and Westminster, or within seven miles of the metropolis, are granted by the College of Physicians; who are empowered to

[m] Hawkins, *Pleas of the Crown*, bk. i. ch. 60. § 23; Burn's *Justice*, vol. iii. p. 1288. (ed. 1845.)

[n] Ch. ii. § 30.

[o] [If Dr. Percival could say this in 1793, much more may *we* thankfully repeat the statement in 1849.]

[p] [See Notes and Illustrations, No. XII.]

elect five of their fellows to act as commissioners for inspecting the lunatic asylums, within their jurisdiction. Houses for the reception of lunatics in the country are to be licensed by the justices of the peace during their quarter-sessions: and at the time when the licence is granted the magistrates are directed to nominate two of their own body, and also one Physician, to visit and inspect such licensed houses. This inspection they are empowered to make as often as they judge it to be expedient; and an allowance is to be granted for the expences incurred. The keeper of every licensed house is bound, under the penalty of one hundred pounds, not to admit or confine any person as a lunatic, without having a certificate in writing, under the hand and seal of some Physician, Surgeon, or Apothecary, that such person is proper to be received into the house, as being *non compos mentis*. And he is further required, under the same penalty, to give notice of this certificate to the secretary of the commissioners, appointed either by the College of Physicians, or the magistrates at their quarter-sessions. The Act of Parliament which establishes these regulations states this important proviso, "That in all proceedings that shall be had under his Majesty's writ of *Habeas Corpus*, and in all indictments, informations, and actions, that shall be preferred and brought

against any person or persons, for confining or ill-treating any of his Majesty's subjects, in any of the said houses, the parties complained of shall be obliged to justify their proceedings, according to the course of the common law, in the same manner as if this Act had not been made[q]."

The legal allowance to a Medical commissioner, for the visitation and inspection of a lunatic-asylum, is fixed by the statute at one guinea. This gratuity, which cannot be regarded as a just compensation for the time and trouble bestowed, it may often be proper to decline; for to a Physician of a liberal mind an inadequate pecuniary acknowledgement is felt as a degradation, but he will be amply remunerated by the consciousness of having performed an office, enjoined at once by the laws of humanity, and of his country.

§ 6. In the case of sudden death, the law has made provision for examining into the cause of it by the Coroner, an officer appointed for the purpose, who is empowered to summon such evidence as is necessary for the discharge of his inquisitorial and judicial functions. On these occasions the attendance of a Physician or Surgeon may often be required, who should be qualified to give

q See *Statutes at Large*, vol. viii. 14 Geo. III. c. 49. § 31; [also 9 Geo. IV. c. 40; 3 & 4 Will. IV. c. 36 & 64; 1 & 2 Vict. c. 14 & 64; 3 & 4 Vict. c. 54; 5 & 6 Vict. c. 87, and 7 & 8 Vict. c. 101. s. 27.]

testimony consonant to legal, as well as to medical knowledge. To this end he must not only be acquainted with the signs of natural death, but also of those which occur when it is produced by accident or violence. And he should not be a stranger to the several distinctions of homicide, established in our courts of judicature; for the division of this act into *justifiable*, *excusable*, and *felonious*, will aid his investigation, and give precision to the opinion which he delivers.

§ 7. When a crime, which the law has adjudged to be capital, is attempted to be committed by force, the resistance of such force, even so as to occasion the death of the offender, is deemed *justifiable homicide*. Mr. Locke carries this doctrine to a much greater extent; asserting, that all manner of force, without a right, upon a man's person, puts him in a state of war with the aggressor, and of consequence, being in such a state of war, he may lawfully kill him that puts him under this unnatural restraint[r]. But Judge Blackstone considers this conclusion as applicable only to a state of uncivilized nature; and observes, that "the law of England is too tender of the public peace, too careful of the lives of the subjects, to adopt so contentious a system; nor will suffer with impunity

r *Treatises of Government*, bk. ii. ch. 3. (*Works*, vol. iv. p. 347.)

any crime to be *prevented* by death, unless the same, if committed, would also be *punished* by death[8]."

§ 8. With cases of justifiable homicide, however, gentlemen of the Faculty are seldom likely to be professionally concerned. But *excusable* homicide may frequently fall under their cognizance, and require their deliberate attention and accurate investigation. It is of two sorts; either *per infortunium*, by misadventure; or *se defendendo*, upon a principle of self-preservation. Death may be the consequence of a lawful act, done without any intention of hurt. Thus, if an officer, in the correction of a soldier, happen to occasion his death, it is only misadventure; the punishment being lawful. But if the correction be unwarrantably severe, either in the manner, the instrument, or the duration of punishment, and death ensue, the offender is at least guilty of manslaughter, and in some circumstances, of murder. A Surgeon therefore is usually present when soldiers are chastised with the lash in pursuance of the sentence of a court-martial; and on his testimony must depend the justification of the mode and degree

[8] Blackstone's *Comment*, bk. iv. ch. 14. vol. iv. p. 181. [This test, however, by the relaxation of the criminal law with respect to rape, burglary, and some other crimes, is no longer applicable.]

of punishment inflicted.—When medicines administered to a sick patient, with an honest design, to produce the alleviation of his pain or cure of his disease, occasion death, this is misadventure, in the view of the law; and the Physician or Surgeon who directed them is not liable to punishment criminally, though a civil action might formally lie for neglect or ignorance. But it hath been holden that such immunity is confined to *regular* Physicians and Surgeons. Sir Matthew Hale, however, justly questions the legality of this determination, since physic and salves were in use before licensed Physicians and Surgeons. "Wherefore he treats the doctrine as apocryphal, and fitted only to qualify and flatter Licenciates and Doctors in Physic; though it may be of use to make people cautious how they meddle too much in so dangerous an employment." The College of Physicians, however, within their jurisdiction, which extends seven miles round London, are vested by charter with the power of fine and imprisonment *pro mala praxi*[t]. Yet Dr. Groenevelt, who was cited in the year 1693 before the Censors of the College [u], and committed to Newgate by a warrant from the President for prescribing cantharides in substance, was acquit-

[t] [See Willcock's *Laws relating to the Medical Profession*, p. 91]

[u] [See Groenevelt's *Tutus Cantharidum in Medicina Usus Internus*, præf.

ted on the plea that bad practice must be accompanied with a bad intention, to render it criminal. This prosecution, whilst it ruined the doctor's reputation and injured his fortune, so that he is said to have died in want, excited general attention to the remedy, and afterwards established the use of it; though it must be acknowledged that his doses were too bold and hazardous. But, whatever be the indulgence of the law towards Medical practitioners, they are bound by a higher authority than that of the most solemn statute, not to exercise the healing art without due knowledge, tenderness, and discretion; and every rash experiment, every mistake originating from gross inattention, or from that ignorance which necessarily results from defective education, is, in the eye of conscience, a crime both against GOD and man.

It must frequently devolve on the Faculty to decide concerning the nature and effects of blows, strokes, or wounds inflicted, and how far the death of the sufferer is to be ascribed to them, or to some antecedent or subsequent disease. In homicide, also, *se defendendo*, the manner and time of the defence are to be considered; for, if the person assaulted fall upon the aggressor when the fray is over and he is running away, this is revenge, and not defence; and, though no witness were present, the situation of the wound or of the blow

would afford, if in the back of the assailant, presumptive evidence of felonious homicide.

§ 9. This crime, which in atrocity exceeds every other, is considered by the law under the three heads of *suicide*, *manslaughter*, and *murder*, concerning each of which the Faculty are occasionally obliged to give professional evidence. A *felo de se* is one who has deliberately put an end to his existence, or committed any unlawful malicious act, the immediate consequence of which proved death to himself. To constitute this act a crime, the party must have been of years of discretion, and in the possession of reason. A Physician, therefore, may be called upon by the coroner to state his opinion of the mental capacity of the defunct. And the law will not authorize the plea, that every melancholic or hypochondriac fit deprives a man of the power of discerning right from wrong. Even if a lunatic kill himself in a lucid interval, Sir Matthew Hale affirms that he is a *felo de se*.—And the Physician who has attended him is best qualified to judge of the degree, the duration, or periodical seasons, of such returns of sanity. But there are cases of temporary distraction, when death may be rushed upon apparently with design, but really from the influence of terror, or the want of that presence of mind which is necessary to the exercise of judgement

and the discrimination of actual from imaginary evil. Of this kind the reader will find an affecting instance related by Dr. Hunter in the "Medical Observations and Inquiries," published by "a Society of Physicians in London[v]."

§ 10. *Manslaughter* is defined "the unlawful killing of another without malice either express or implied; which may be either voluntarily, upon a sudden heat; or involuntarily, but in the commission of some unlawful act." Yet, though this definition is delivered from Sir Matthew Hale, by the excellent Commentator on the Laws of England so often quoted[w], it is not sufficiently precise and comprehensive. For, when a person does an act lawful in itself, but which proves fatal to a fellow-citizen, because done without due circumspection, it may, according to circumstances, be either misadventure, manslaughter, or murder. Thus, when a workman kills any one by flinging down a stone or piece of timber into the street, if the accident be in a country village, where there are few passengers, and if he give warning by calling out to them, it is only *misadventure;* but if it be in London, or any other populous town, where persons are continually passing, it is *manslaughter*, though warning be loudly given; and

[v] Vol. vi. p. 279.
[w] [Blackstone's *Comment.*, bk. iv. ch. 14. vol. iv. p. 190.]

it is *murder*, if he know of their passing, and yet gives no warning; for this is malice against all mankind[x].

On the like grounds we may reason concerning the cases of death occasioned by drugs designed to produce abortion. This purpose is not always unlawful; for the configuration of the pelvis in some females is such as to render the birth of a full-grown child impossible, or inevitably fatal. But even in such instances the guilt of manslaughter may be incurred by ignorance of the drastic quality of the medicine prescribed, or want of due caution in the dose administered; and, when no moral or salutary end is in view, the simple act itself, if fatal in the issue, falls under the denomination of murder[y]. "If a woman be quick with child, and, by a potion or otherwise, killeth it in her womb, this is a great misprision, yet no murder; but if the child be born alive, and dieth of the potion or other cause, this is murder[z]." The procuring of abortions was common amongst the Romans; and, it is said, was liable to no penalty before the reigns of Severus and Antoninus. Even those princes made it criminal only in the case of a mar-

[x] Blackstone's *Comment.*, bk. iv. ch. 14. vol. iv. p. 191.

[y] See Burn's *Justice*, vol. iii. p. 810. [By 7 Will. IV. and 1 Vict. c. 85. the unlawfully administering any poison or other noxious thing, or using any instrument or other means to procure miscarriage, is made felony, punishable with transportation for life.]

[z] *Ibid.*, vol. i. p. 10. (ed. 1845.)

ried woman practising it to defraud her husband of the comforts of children, from motives of resentment; for, the foetus being regarded as a portion of the womb of the mother, she was supposed to have an equal and full right over both. This false opinion may have its influence in modern, as well as in ancient, times; and false it must be deemed, since no female can be privileged to injure her own bowels, much less the foetus, which is now well known to constitute no part of them. To extinguish the first spark of life is a crime of the same nature, both against our Maker and society, as to destroy an infant, a child, or a man; these regular and successive stages of existence being the ordinances of GOD, subject alone to His Divine will, and appointed by Sovereign Wisdom and Goodness as the exclusive means of preserving the race, and multiplying the enjoyments of mankind. Hence the Father of Physic, in the Oath enjoined on his pupils, (which some Universities now impose on the candidates for Medical degrees,) obliged them solemnly to abjure the practice of administering the *πεσσὸς φθόριος*[a]. But, in weighing the charge against any person of having procured abortion, the methods employed should be attentively considered by the Faculty;

[a] [Οὐδὲ γυναικὶ πεσσὸν φθόριον δώσω. Hippocr. *Jusjur.*, tom. i. p. 2. ed. Kühn.]

as this effect has often been ascribed to causes inadequate to its production. Even the pessary, so sanctimoniously forbidden by Hippocrates, has little of that activity and power which superstition assigned to it.

§ 11. The law of England guards with assiduous care the lives of infants, when endangered by motives which counteract, and too often overbalance, the strong operation of maternal love. In cases of bastardy, therefore, it is declared, by a statute passed in the reign of James the First, that, "If any woman be delivered of any issue of her body, male or female, which, being born alive, should by the laws of this realm be a bastard, and she endeavour privately, either by drowning, or secret burying thereof, or any other way, either by herself, or the procuring of others, so to conceal the death thereof, as that it may not come to light whether it was born alive or not, but be concealed, she shall suffer death, as in case of murder, except she can prove, by one witness at least, that the child was born dead[b]." This law, though humane in its principle, is much too severe in its construction[c]. To give certainty to punishment, by facilitating conviction, is doubtless an essential

[b] Burn's *Justice*, vol. i. p. 613. (ed. 1845.)

[c] [It has long been repealed; and the endeavour to conceal the birth of a child is now a misdemeanour punishable with imprisonment.]

object of jurisprudence; and it has been well observed, that the statute which made the possession of the implements of coining a capital offence, by constituting such possession complete evidence of guilt, has proved the most effectual mean of enforcing the denunciation of law against this dangerous and tempting crime[d]. But the analogy which the able moralist has drawn between this ordinance and that relating to bastardy, is not fully conclusive. For possession, in the former case, clearly implies a specific purpose, for which the legislature with sufficient wisdom and justice has provided a specific punishment. Whereas secrecy in the mother, concerning the death of her illegitimate offspring, hardly amounts to the lowest degree of presumptive evidence of felonious homicide. Gentlemen of the Faculty have often melancholy experience of the distraction and misery which females suffer under these unhappy circumstances; and, when it becomes their painful office to deliver evidence on such occasions, justice and humanity require that they should scrutinize the whole truth, and

> "nothing extenuate,
> Nor set down aught in malice[e]."

"What is commonly understood to be the murder

[d] See Paley's *Moral and Political Philosophy*, bk. vi. ch. 9.
[e] [Shakespear's *Othello*, act v. sc. 2.]

of a bastard child by the mother," says Dr. Hunter, "if the real circumstances were fully known, would be allowed to be a very different crime in different circumstances. In some (it is to be hoped *rare*,) instances, it is a crime of the very deepest dye . . . . . But, as well as I can judge, the greatest number of what are called murders of bastard children, are of a very different kind. The mother has an unconquerable sense of shame, and pants after the preservation of character: so far she is virtuous and amiable. She has not the resolution to meet and avow infamy. In proportion as she loses the hope either of having been mistaken with regard to pregnancy, or of being relieved from her terrors by a fortunate miscarriage, she every day sees her danger greater and nearer, and her mind more overwhelmed with terror and despair. In this situation many of these women, who are afterwards accused of murder, would destroy themselves, if they did not know that such an action would infallibly lead to an enquiry, which would proclaim what they are so anxious to conceal. In this perplexity, and meaning nothing less than the murder of the infant, they are meditating different schemes for concealing the birth of the child; but are wavering between difficulties on all sides, putting the evil hour off, and trusting too much to chance and fortune.

In that state often they are overtaken sooner than they expected; their schemes are frustrated; their distress of body and mind deprives them of all judgement and rational conduct; they are delivered by themselves, wherever they happened to retire in their fright and confusion; sometimes dying in the agonies of child-birth, and sometimes being quite exhausted they faint away and become insensible of what is passing, and, when they recover a little strength, find that the child, whether still-born or not, is completely lifeless. In such a case, is it to be expected, when it could answer no purpose, that a woman should divulge the secret? Will not the best dispositions of mind urge her to preserve her character? She will therefore hide every appearance of what has happened as well as she can; though, if the discovery be made, that conduct will be set down as a proof of her guilt. . . . . Here let us suppose a case, which every body will allow to be very possible. An unmarried woman, becoming pregnant, is striving to conceal her shame, and laying the best scheme that she can devise for saving her own life and that of the child, and at the same time concealing the secret; but her plan is at once disconcerted by her being unexpectedly and suddenly taken ill by herself, and delivered of a dead child. If the law punishes such a woman with death for not

publishing her shame, does it not require more from human nature, than weak human nature can bear? In a case so circumstanced, surely the only crime is the having been pregnant, which the law does not mean to punish with death; and the attempt to conceal it by fair means should not be punishable by death, as that attempt seems to arise from a principle of virtuous shame[f]."

The observations here quoted have a just claim to attention from the extensive experience which the author possessed, and still more from his intimate knowledge of the female character. Yet to the moral and political philosopher, Dr. Hunter may appear to have exalted the sense of shame into the principle of virtue; and to have mistaken the great end of penal law, which is not vengeance, but the prevention of crimes. The statute, indeed, which makes the concealment of the birth of a bastard child full proof of murder, confounds all distinctions of innocence and guilt; as such concealment, whenever practicable, would be the wish and act of all mothers, amiable or vicious, under the same unhappy predicament. Law, however, which is the guardian and bulwark of the public weal, must maintain a steady, and even rigid, watch, over the general tendencies of human actions: and, when these are not only

[f] *Medical Observations and Inquiries*, vol. vi. pp. 271, 286.

clearly understood, but interpreted according to the rules of wisdom and rectitude, that may justly be constituted a civil crime, which, if permitted, might give occasion to atrocious guilt, though in its own nature innocent. The measure of punishment, however, should be proportionate, as nearly as possible, to the temptation to offend, and to the kind and degree of evil produced by the offence. If inadequate to the former, it will be nugatory; and if too severe for the latter, it will defeat itself, by furnishing a just plea for superseding its execution[g]. A revision of our sanguinary statutes is much wanted[h]; and it would be happy if means could be devised of suppressing the punishment, by obviating the crime, when it is merely positive or municipal. This we have seen accomplished with respect to the coinage of money, by the simple introduction of a standard weight in the payment of gold. And a sagacious legislator might doubtless discover and adopt similar improvements in other branches of penal jurisprudence.

Much observation is required to discriminate between a child still-born, and one that has lived

[g] "L'atrocité des lois en empêche l'exécution.—Lorsque la peine est sans mesure, on est souvent obligé de lui préférer l'impunité." (Montesquieu.)

[h] [This has taken place, and the punishment of death is now inflicted in comparatively few cases.]

after birth only a short space of time. Various appearances, also, both internal and external, may be mistaken for marks of violent death. Even the swimming of the lungs in water, a test on which so much reliance is placed, will, on many occasions, be found fallacious. But these are points of professional science, which do not strictly fall under the subject of this section; and the reader is particularly referred to the paper already quoted, and also to J. F. Faselii "Elementa Medicinae Forensis [Regim. 4to. 1787.];" or to a valuable epitome of the same work in English by Dr. Farr[1].

§ 12. Duelling is another species of felony, even though the consequences of it should not prove fatal: and gentlemen of the Faculty are peculiarly interested in the knowledge of the laws relating to it; because they are not only liable to be summoned on the trial of the parties, if either or both of them be wounded, but are frequently professional attendants on them in the field of combat[j]. It is astonishing that a practice which originated in ages of Gothic ignorance, superstition, and barbarism, should be continued in the present enlightened period, though condemned by the ordinances of every state, and repugnant to the

[1] "Elements of Medical Jurisprudence, &c. &c. by Samuel Farr, M.D." 3rd. ed. 12mo. Lond. 1815. [Or the more modern works of Beck, Christison, Taylor, &c.]

[j] [See Notes and Illustrations, No. XIII.]

spirit and precepts of Christianity. Sir Francis Bacon, when Attorney-General, in the reign of James I., delivered a Charge before the Court of Star-Chamber touching duels, which gives a clear and animated view of the light in which they were then regarded. "The first motive," he says, "is a false and erroneous imagination of honour and credit; and therefore the King, in his last proclamation, doth most aptly and excellently call them *bewitching duels*. For, if one judge of it truly, it is no better than a sorcery, that enchanteth the spirits of young men that bear great minds with a false shew, *species falsa;* and a kind of satanical illusion and apparition of honour against religion, against law, and against moral virtue.... Hereunto may be added, that men have almost lost the true notion and understanding of fortitude and valour. For fortitude distinguisheth of the grounds of quarrels whether they be just; and not only so, but whether they be worthy; and setteth a better price upon men's lives than to bestow them idly. Nay, it is weakness and disesteem of a man's self, to put a man's life upon such liedger[k] performances: a man's life is not to be trifled away; it is to be offered up and sacrificed to honourable services, public merits, good causes, and noble adventures. It is in expense of blood

[k] Liedger, i. e. *slight, trifling*, from the French *leger*.

as it is in expense of money; it is no liberality to make a profusion of money upon every vain occasion; nor no more it is fortitude to make effusion of blood, except the cause be of worth[1]."

The decree of the Star-Chamber against Priest and Wright, the objects of Sir Francis Bacon's Charge, was, that they should both be committed to prison; that the former should be fined £500, and the latter 500 marks; and that at the next assizes they should publicly acknowledge their high contempt of, and offence against, GOD, the King's majesty, and his laws, shewing themselves penitent for the same.—Though this judgement appears to have been founded in wisdom and equity, yet, happily for our country, the court which passed the sentence has been long suppressed; and we are now governed, not by arbitrary will, but by known and fixed laws. Those which subsist against duelling, I shall quote on the authorities of Foster, Blackstone, Hawkins and Burn. "Deliberate duelling, if death ensueth, is in the eye of the law murder; for duels are generally founded in deep revenge; and, though a person should be drawn into a duel, not upon a motive so criminal, but merely upon the punctilio of what the *swordsmen falsely call honour*, that will not excuse;

[1] Bacon's *Works*, vol. iv. p. 401.

for he that deliberately seeketh the blood of another upon a private quarrel, acteth in defiance of all laws human and divine, whatever his motive may be[m]." "Express malice is when one, with a sedate deliberate mind and formed design, doth kill another.... This takes in the case of deliberate duelling, where both parties meet avowedly with an intent to murder; thinking it their duty as gentlemen, and claiming it as their right, to wanton with their own lives and those of their fellow-creatures, without any warrant or authority from any power either divine or human, but in direct contradiction to the laws both of GOD and man. And therefore the law has justly fixed the crime and punishment of murder on them and on their seconds also[n]." "The law so far abhors all duelling in cold blood, that not only the principal who actually kills the other, but also his seconds, are guilty of murder, whether they fought or not: and it is holden, that the seconds of the party slain are likewise guilty as accessaries[o]." —From variations in the moral and intellectual character of man, it is impossible to ascertain the precise period when the passions may be supposed to become cool, after having been violently agita-

[m] Sir Michael Foster's *Discourse of Homicide*, ch. 5. § 5. (in his *Crown Law*, 8vo. p. 297.)

[n] Blackstone's *Comment.*, bk. iv. ch. 14. vol. iv. p. 198.

[o] Hawkins, *Pleas of the Crown*, bk. i. ch. 31. § 31; and Burn's *Justice*, vol. iii. p. 812. ed. 1845.

ted. Judgement, therefore, must be founded on the circumstances of deliberation which are delivered in the course of evidence. In many cases it has been determined that death, in consequence of an appointment and meeting a few hours subsequent to the provocation, is murder [p].

§ 13. Before a Surgeon engage professionally to attend a duellist to the field of combat, it behoves him to consider well, not only how far he is about to countenance a deliberate violation of the duties of morality and religion; but whether, in the construction of law, he may not be deemed an aider and abettor of a crime which involves in it such turpitude that death is alike denounced against the principal and the accessary. Does he not voluntarily put himself into a predicament, similar, in many essential points, to that of the second, who is expressly condemned by the legislature of this country? Both are apprized of the purpose to commit an act of felony; both take an interest in the circumstances attendant upon it; and both are present during the execution, the one to regulate its antecedents, the other to alleviate its consequences. But I suggest these considerations with much diffidence: and, though I

[p] See Legg's case, in Kelyng's *Reports*, p. 27; Eden's *Principles of Penal Law*, chap. 20. p. 224.

observe some passages in Sir Michael Foster's "Discourse concerning Accomplices," which seem to confirm them, yet it may be proper to quote the following, apparently adverse, opinion of this excellent judge. "In order to render a person an accomplice and a principal in felony, he must be aiding and abetting at the fact, or ready to afford assistance, if necessary: and therefore if *A.* happeneth to be present at a murder, for instance, and taketh no part in it, nor endeavoureth to prevent it, nor apprehendeth the murderer, nor levieth hue and cry after him; this strange behaviour of his, though highly criminal, will not of itself render him either principal or accessary[q]."

But, whatever be the objections against the attendance of a Surgeon in the field of combat, they cannot be construed to extend to the affording of all possible assistance to any unfortunate sufferer in an affair of honour; provided such assistance be not preconcerted, but required as in ordinary accidents or emergencies. For in the offices of the healing art no discrimination can be made either of occasions or of characters; and it must be acknowledged, that many of the victims of duelling have been men, from their talents and virtues, possessing the justest claim to assiduous and tender attention. That lives of such inestim-

[q] Foster's *Crown Law*, 8vo. p. 350.

able value to their friends, to their families, and to the public, should be at the mercy of any profligate rake who wantonly gives affronts or idly fancies he receives them, is a great aggravation of the folly, as well as of the guilt, of duelling. This reflection seems to shew the propriety of a change in the penal code respecting it; and that the punishment inflicted should be confined to the aggressor; strict inquisition into the circumstances of the case being previously made by the coroner, or some magistrate authorized and bound to exercise this important trust. And *he* may with reason be regarded as the aggressor, who either violates the rules of decorum by any unprovoked rudeness or insult, or who converts into an offence what was intended only as convivial pleasantry[r].

§ 14. A Physician has no special interest in an acquaintance with the statutes relative to duelling; but, as he possesses the rank of a gentleman, both by his liberal education and profession, the law of honour (if that may be termed a *law*, which is indefinite and arbitrary,) has a claim to his serious study and attention. As a philosopher also it becomes him to trace its origin, and to investigate the principles on which it is founded; and as a moralist duty calls upon him to counteract its baneful influence and ascendancy: for in princi-

[r] See Notes and Illustrations, No. XIV.

ple it is distinct from virtue; and as a practical rule it extends only to certain formalities and decorums, of little importance in the transactions of life, and which are spontaneously observed by those who are actuated with the true sense of propriety and rectitude. Genuine honour in its full extent may be defined, a quick perception and strong feeling of moral obligation, in conjunction with an acute sensibility to shame, reproach, or infamy. In different characters these constituent parts of the principle are found to exist in proportions so diversified, as sometimes to appear almost single and detached. The former always "aids and strengthens virtue:" the latter may occasionally "imitate her actions[s]," when fashion happily countenances, or high example prompts to, rectitude; but, being connected for the most part with a jealous pride and capricious irritability, it will be more shocked with the imputation, than with the commission, of what is wrong; and thus it will constitute that spurious honour, which, by a perversion of the laws of association, "puts evil for good and good for evil," and, under the sanction of a name, perpetrates crimes without remorse and even without ignominy[t].

§ 15. Homicide by poison is another very im-

[s] Addison's *Cato*, act ii. sc. 5.

[t] See the Author's *Moral and Literary Dissertations*, p. 295. (or *Works*, vol. ii. p. 203.)

portant object of medical jurisprudence. When it is the effect of inadvertency, or the want of adequate caution in the use of substances dangerous to health and life, the law regards it as a *misdemeanour;* when it is the consequence of rashness, of wanton experiment, or of motives unjust though not malicious[u], it becomes *manslaughter;* and when the express purpose is to kill by means of some deleterious drug, it constitutes a most atrocious species of *murder*. In cases of this nature the Faculty are called upon to give evidence concerning the nature of the poison, the symptoms produced by it, and the actual fatality of its operation. I know not whether the period of this fatal operation be extended, as in the infliction of blows and wounds, to a year and a day; but, if it be, the most nice and accurate investigation of the progressive advances of disease and death will be incumbent on the Physician or Surgeon who is consulted on the occasion. No subject has given rise to more misconception and superstition than the action of poisons. Numberless

[u] "If an action unlawful itself be done deliberately, and with intention of mischief or great bodily harm to particulars, or of mischief indiscriminately, fall it where it may, and death ensue against or beside the original intention of the party, it will be murder. But if such mischievous intention doth not appear, (which is matter of fact and to be collected from circumstances,) and the act was done heedlessly and incautiously, it will be manslaughter, not accidental death, because the act upon which death ensued was unlawful." (Foster's *Crown Law*, p. 261.)

substances have been classed as such, which, if not inert, are at least innoxious; and powers have been ascribed to others, far exceeding their real energy. Even Lord Verulam, the great luminary of science, in his Charge against the Earl of Somerset for the murder of Sir Thomas Overbury in the tower of London, seems to give credit to the story of Livia, who is said to have poisoned the figs upon the tree, which her husband was wont to gather with his own hands; and he seriously states, that Weston chased the poor prisoner "with poison after poison; poison in salts, poison in meats, poison in sweet-meats, poison in medicines and vomits, until at last his body was almost come, by use of poisons, to the state that Mithridates's[v] body was by the use of treacle and preservatives, that the force of the poisons was blunted upon him: Weston confessing, when he was chid for not dispatching him, that he had given him enough to poison twenty men[x]." In this criminal transaction the truth probably was (what has been judiciously suggested by Rapin,) that the lieutenant of the Tower, refusing to be concerned in the crime, yet not daring to discover it from the fear of the Viscount Rochester's resentment, seized the victuals sent

[v] [See Galen, *De Antid.* i. 1; *De Ther. ad Pis.* c. 16. tom. xiv. pp. 3, 283.]

[x] Bacon's *Works*, vol. iv. p. 481.

from time to time for the prisoner, and threw them into the house of office. Sir Thomas Overbury, however, fell a victim at last to an empoisoned glyster.

When the particular drug, or other mean employed, can be accurately ascertained, its deleterious qualities should be fully investigated; and these should be cautiously compared with the effects ascribed to it in the case under consideration. It may often be expedient also to examine the body of the sufferer by dissection; and this should be accomplished as expeditiously as possible, that the changes imputed to death may not be confounded with those which are imputed to poison. But on such points reference can alone be made to the knowledge and experience of the practitioner, and to the lights which he may acquire by consulting Faselius and other works of a similar nature. I shall, therefore, close this article with a few passages of the charge of Mr. Justice Buller to the grand jury, relative to the trial of Captain Donellan, for the murder of Sir Theodosius Boughton, at the Warwick assizes, in March 1781. "In this case, gentlemen," he says, "you will have two objects to consider, first, whether the deceased did die of *poison?* secondly, whether the person suspected did assist in *administering* the poison? With respect to the first of these considerations, you will, no doubt, hear the sentiments

of those who are skilled in the nature and effects of poison, which is of various sorts, and most subtile in its operation. From the information of such persons you will be able to form an opinion upon the effects which different poisons have on different persons; and also of the effects the same poisons have on persons of different habits and constitutions. . . . . If you find he did get his death by poison, the next case is, to consider who gave him that poison. Where poison is knowingly given, and death ensues, it is wilful murder; and if one is present when poison is given by another, he is not an accessary but a principal[y]."

§ 16. In all civilized countries the honour and chastity of the female sex are guarded from violence by the severest sanctions of law: and this protection is at once humane, just, and necessary to social morality. It is consonant to humanity that weakness should be secured against the attacks of brutal strength; it is just that the most sacred of all personal property should be preserved from invasion; and it is essential to morality that licentious passion should be restrained, that modesty should not be wounded, nor the mind contaminated, in some instances, before it is capable of

y *Hist. Sketches of Civil Liberty*, p. 209.

forming adequate conceptions of right and wrong. The crime of rape, therefore, subjects the perpetrator to condign punishment by every code of jurisprudence, ancient or modern[z]. Amongst the Jews death was inflicted, if the damsel was betrothed to another man; and, if not betrothed, a fine amounting to fifty shekels of silver was to be paid to her father by him who had "laid hold of the virgin," and she was to become his wife; and, "because he had humbled her, he might not put her away all his days[a]:"—for the privilege of divorce was authorized by the Jewish institutions. The Romans made this offence capital, superadding the confiscation of goods. Even the carrying off a woman from her parents or guardians, and cohabiting with her, whether accomplished by force or with her full consent, were made equally penal with a rape, by an imperial edict. For the Roman law seems to have supposed, that women never deviate from virtue without being seduced by the arts of the other sex; and, therefore, by imposing a powerful restraint on the solicitations of men, they aimed at a more effectual security of the chastity of women. "Nisi etenim eam solicitaverit, nisi odiosis artibus circumvenerit, non faciet eam velle in tantum dedecus sese pro-

[z] See Notes and Illustrations, No. XV.
[a] Deut. xxii. 25, 28, 29.

dere." But the English law, as Judge Blackstone has observed[b], does not entertain such sublime ideas of the honour of either sex, as to lay the blame of a mutual fault on one only of the transgressors; and it is therefore essential to the crime of rape, that the woman's will is violated by the execution. But, by a statute of Queen Elizabeth, if the crime be perpetrated on a female child under the age of ten years, the consent or non-consent is immaterial, as she is supposed to be of insufficient judgement. Sir Matthew Hale is even of opinion, that such profligacy committed on an infant under *twelve* years, (the age of female discretion by common law,) either with or without consent, amounts to a rape and felony[c]. But the decisions of the courts have generally been founded on the statute above-mentioned.

A male infant under the age of fourteen years is deemed by the law incapable of committing, and therefore cannot be found guilty of, a rape, from a presumed imbecility both of body and mind. This detestable crime being executed in secrecy, and the knowledge of it being confined to the party injured, it is just that her single testimony should be adducible in proof of the fact. Yet the excellent observation of Sir Matthew Hale merits

[b] [*Comment.*, bk. iv. ch. 15. vol. iv. p. 210.]
[c] [It is now created a misdemeanour by statute.]

peculiar attention: "It is an accusation," says he[d], "easily to be made, and hard to be proved; and harder to be defended by the party accused, though never so innocent." He then relates two extraordinary cases of malicious prosecution for this crime, which had fallen under his own cognizance; and conoludes, "I only mention these instances, that we may be the more cautious upon trials of offences of this nature, wherein the court and jury may, with so much ease, be imposed upon, without great care and vigilance; the heinousness of the offence many times transporting the judge and jury with so much indignation, that they are over-hastily carried to the conviction of the person accused thereof, by the confident testimony sometimes of malicious and false witnesses." Collateral and concurrent circumstances of time and place[e], appearances of violence on examination, &c., are, therefore, necessary to be added to the mere affirmative evidence of the prosecutor; and the inspection of a Surgeon is often required, to ascertain the reality of the alleged violence. On such occasions his testimony should be given with all possible delicacy, as well as with the utmost caution. Even external signs of injury may originate from disease,

[d] [*Hist. Placit. Coronae*, Pt. i. ch. 58. vol. i. p. 635.]

[e] These circumstances are particularly adverted to in the Mosaic Law. See Deut. xxii. 25—27.

of which the following examples, which have occurred in Manchester, are adduced on very respectable authorities.

A girl about four years of age was admitted into the Manchester Infirmary on account of a mortification in the female organs, attended with great soreness, and general depression of strength. She had been in bed with a boy fourteen years old, and there was reason to suspect that he had taken criminal liberties with her. The mortification increased, and the child died. The boy, therefore, was apprehended, and tried at the Lancaster assizes; but was acquitted on sufficient evidence that several instances of a similar disease had appeared, near the same period of time, in which there was no possibility of injury or guilt. In one of these cases the body was opened after death. The disorder had been a typhus fever, accompanied with a mortification of the pudenda. There was no evident cause of this extraordinary symptom discoverable on inspection. The lumbar glands were of a dark colour; but all the viscera were sound.

§ 17. Concerning nuisances, the investigation and testimony of the Faculty may be required, whenever they are of a nature offensive by the vapours which they emit, and injurious to the health of individuals or of the community. The

law defines any thing that worketh hurt, inconvenience, or damage, to be a nuisance[f]. Thus, if a person keep hogs or other noisome animals so near the house of another that the stench incommodes him and renders the air unwholesome, this is a nuisance, because it deprives him of the enjoyments and benefits of his habitation. A smelting house for lead, the smoke of which kills the grass and corn, and injures the cattle of a neighbouring proprietor of land, is deemed a nuisance. Dye-houses, tanning-yards, &c., are nuisances, if erected so near a water-course as to corrupt the stream. But a chandler's factory, even when situated in a crowded town, is said to be privileged from action or indictment, because candles are regarded as necessaries of life. Hawkins, however, questions the authority of this opinion, since the making of candles may be carried on in the country without annoyance[g]. But this is scarcely practicable in a populous neighbourhood; and, as Lord Mansfield has adjudged, that, in such cases, what makes the enjoyment of being and property uncomfortable, is, in the view of the law[h], a nuisance, various works and trades, essential to the happiness and

[f] See Blackstone's *Comment.*, bk. iii. ch. 13. vol. iii. p. 216 &c.; and bk. iv. ch. 13. vol. iv. p. 161 (?)

[g] Hawkins, *Pleas of the Crown*, bk. i. ch. 75. § 10; Burn's *Justice*, vol. iii. p. 233 ed. 1845.

[h] Burrow's *Reports*, p. 333; Burn, *ibid.*

interest of the community, may fall under this construction. But chemistry, mechanics, and other arts and sciences, furnish methods of diminishing or obviating almost every species of noisome vapour; and there can be no doubt that vitriol works, aqua-fortis works, marine acid-bleaching works, the singeing of velvets, &c., may be carried on with very little inconvenience to a neighbourhood, by means neither difficult nor expensive. The same observation may be applied to the business of the dyer, the fell-monger, the tanner, the butcher, and the chandler; and, as these with many other disgustful trades are in some degree necessary in large towns, justice and policy require that they should only be prosecuted as nuisances, when not conducted in the least offensive mode possible. To guard against arbitrary powers in municipal government, and to render the decision and investigation of such points perfectly consistent with the liberty of the subject, the reference should be made to a jury; or at least, any individual should be allowed an appeal to one, if he think himself aggrieved.

The frequency of fires in large manufacturing towns makes it expedient that magistrates or commissioners should be authorized to scrutinize rigidly into the causes of them when they occur, to punish neglect or carelessness, as well as malicious

intention, and to enforce suitable measures of prevention. The plans proposed for this last very important purpose by Mr. Hartley and Lord Stanhope have been proved to be effectual, and are not expensive[1]. The adoption of them, therefore, or of other means which may hereafter be discovered, should be required, under a heavy penalty, in cases deemed by insurers *doubly hazardous*.

§ 18. It is a complaint made by coroners, magistrates, and judges, that Medical gentlemen are often reluctant in the performance of the offices required from them as citizens qualified by professional knowledge to aid the execution of public justice. These offices, it must be confessed, are generally painful, always inconvenient, and occasion an interruption to business, of a nature not to be easily appreciated or compensated; but, as they admit of no substitution, they are to be regarded as appropriate debts to the community, which neither equity nor patriotism will allow to be cancelled[j].

When a Physician or Surgeon is called to give evidence, he should avoid, as much as possible, all obscure and technical terms, and the unnecessary

[1] [Mr. Hartley's plan the Editor has not been able to find; that of Lord Mahon (afterwards Earl Stanhope,) is contained in the *Philos. Trans.* for 1778. p. 884. The titles of more recent works on the same subject may be seen in Watt's *Bibl. Brit.*]

[j] [See Notes and Illustrations, No. XVI.]

display of Medical erudition. He should deliver, also, what he advances, in the purest and most delicate language consistent with the nature of the subject in question.—When two or more gentlemen of the Faculty are to offer their opinions or testimony, it would sometimes tend to obviate contrariety, if they were to confer freely with each other, before their public examination. Intelligent and honest men, fully acquainted with their respective means of information, are much less likely to differ, than when no communication has previously taken place. Several years ago a trial of considerable consequence occurred relative to a large copper work; and two Physicians of eminence were summoned to the assizes, to bear testimony concerning the salubrity or insalubrity of the smoke issuing from the furnaces. The evidence they offered was entirely contradictory. One grounded his testimony on the general presumption that the ores of copper contain arsenic; and consequently that the effluvia proceeding from the roasting of them, must be poisonous because arsenical. The other had made actual experiments on the ore employed in the works under prosecution, and on the vapours which it yielded: he was thus furnished with full proof that no arsenic was discoverable in either. But the affirmative prevailed over the negative testimony, from

the authority of the Physician who delivered it; an authority which he probably would not have misapplied, if he had been antecedently acquainted with the decisive trials made by his opponent.

§ 19. It is the injunction of the law, sanctioned by the solemnity of an oath, that in judicial testimony "the truth, the whole truth, and nothing but the truth" shall be delivered. A witness, therefore, is under a sacred obligation to use his best endeavours that his mind be clear and collected, unawed by fear, and uninfluenced by favour or enmity. But in criminal prosecutions, which affect the life of the person accused, scruples will be apt to arise in one, who, by the advantages of a liberal education, has been accustomed to serious reflection, yet has paid no particular attention to the principles of political ethics. It is incumbent, therefore, on gentlemen of the Faculty to settle their opinions concerning the right of the civil magistrate to inflict capital punishment, the moral and social ends of such punishment, the limits prescribed to the exercise of the right, and the duty of a citizen to give full efficiency to the laws.

The magistrate's *right* to inflict punishment, and the *ends* of such punishment, though intimately connected, are in their nature distinct. The *right* is clearly a substitution or transfer of that which belongs to every individual by the

law of nature, viz. instant self-defence, and security from future violence or wrong. The *ends* are more comprehensive, extending not only to complete security against offence, but to the correction and improvement of the offender himself, and to counteract in others the disposition to offend. Penal laws are to be regulated by this standard; and the lenity or severity with which they are executed, should, if possible, be exactly proportionate to it. In different circumstances, either personal or public considerations may preponderate; and in cases of great moral atrocity, or when the common weal is essentially injured, all regard to the reformation of a criminal is superseded, and his life is justly forfeited to the good of society. In the participation of the benefits of the social union, he has virtually acceded to its conditions; and the violation of its fundamental articles renders him a rebel and an enemy, to be expelled or destroyed, both for the sake of security, and as an awful warning to others. When capital punishments are viewed in this light, the most humane and scrupulous witness may consider himself as sacrificing private emotions to public justice and social order; and that he is performing an act at once beneficial to his country and to mankind. For political and moral economy can subsist in no community, without the steady execution of wise

and salutary laws; and every atrocious act, perpetrated with impunity, operates as a terror to the innocent, a snare to the unwary, and an incentive to the flagitious. The criminal, also, who evades the sentence of justice, like one infected with the pestilence, contaminates all whom he approaches. He, therefore, who, from false tenderness or misguided conscience, has prevented conviction by withholding the necessary proofs[k], is an accessary to all the evils which ensue. The maxim, that "it is better ten villains should be discharged than a single person suffer by a wrong adjudication," is one of those partial truths which are generally misapplied, because not accurately understood. It is certainly eligible that the rules and the forms of law should be so precise and immutable, as not to involve the innocent in any decision obtained by corruption, or dictated by passion and prejudice; though this should sometimes furnish an outlet for the escape of actual offenders. The plea, also, may have some validity in crimes of a nature chiefly political, (with which, however, the Faculty can professionally have no concern,) such as coining and forgery, or in cases wherein the

[k] "The oath administered to the witness is, not only that what he depoſes shall be true, but that he shall also depose the *whole* truth; so that he is not to conceal any part of what he knows, whether interrogated particularly to that point or not." Blackstone's *Comment.*, bk. iii. ch. 23. vol. iii. p. 372.

punishment much exceeds the evil or turpitude of the offence. For Lord Bacon has well observed, that "over-great penalties, besides their acerbity, deaden the execution of the law[1];" and, when they are discovered to be unjustly inflicted, its authority is impaired, its sanctity dishonoured, and veneration gives place to disgust and abhorrence.

But the dread of innocent blood being brought upon us by explicit and honest testimony, is one of those superstitions, which the nurse has taught, and which a liberal education ought to purge from the mind: and if, in the performance of our duty, innocence should unfortunately be involved in the punishment of guilt, we shall assuredly stand acquitted before GOD and our own consciences. The convict himself, lamentable as his fate must be regarded, may derive consolation from the reflection, that, though his sentence be unjust, "he falls for his country, whilst he suffers under the operation of those rules, by the general effect and tendency of which the welfare of the community is maintained and upholden[m]."

§ 20. When professional testimony is required in cases of such peculiar malignity as to excite general horror and indignation, a virtuous mind,

[1] See *Proposal for Amending the Laws of England.* (*Works*, vol. iv. p. 367.)

[m] Paley's *Moral and Political Philosophy*, bk. vi. ch. 9.

even though scrupulous and timid, is liable to be influenced by too violent impressions, and to transfer to the accused that dread and aversion, which, before conviction, should be confined to the crime, and as much as possible withheld from the supposed offender. If the charge, for instance, be that of parricide, accomplished by poison, and accompanied with deliberate malice, ingratitude, and cruelty; the investigation should be made with calm and unbiassed precision, and the testimony delivered with no colouring of passion, nor with any deviation from the simplicity of truth. When circumstantial proofs are adduced, they should be arranged in the most lucid order, that they may be contrasted and compared in all their various relations with facility and accuracy; and that their weight may be separately and collectively determined in the balance of justice. For in such evidence there subsists a regular gradation from the slightest presumption to complete moral certainty; and, if the witness possess sufficient information in this branch of philosophical and juridical science, he will always be competent to secure himself, and, on many occasions, the court also, from fallacy and error. The Marquis de Beccaria has laid down the following excellent theorem concerning judicial evidence:—"When the proofs of a crime are dependent on each other, (that is,

when the evidence of each witness, taken separately, proves nothing,) or when all the proofs are dependent upon one, the number of proofs neither increases nor diminishes the probability of the fact; for the force of the whole is no greater than the force of that on which they depend; and, if this fails, they all fall to the ground. When the proofs are independent of each other, the probability of the fact increases in proportion to the number of proofs; for the falsehood of one does not diminish the veracity of another.....The proofs of a crime may be divided into two classes, perfect and imperfect. I call those *perfect*, which exclude the possibility of innocence; *imperfect*, those which do not exclude this possibility. Of the first, one only is sufficient for condemnation; of the second, as many are required as form a perfect proof; that is to say, that, though each of these, separately taken, does not exclude the possibility of innocence, it is nevertheless excluded by their union[n]."

[n] *Essay on Crimes and Punishments*, chap. 14.

NOTES AND ILLUSTRATIONS.

NOTE I. Chap. i. § 31. p. 45.

Caution or temerity in practice.

It is the observation of an elegant writer on the subject of morals, and applicable to Medical practice, that "The best character is that which is not swayed by temper of any kind; but alternately employs enterprise and caution, as each is useful to the particular purpose intended. Such is the excellence which St. Evremond ascribes to Mareschal Turenne, who displayed every campaign, as he grew older, more temerity in his military enterprises; and being now, from long experience, perfectly acquainted with every incident in war, he advanced with greater firmness and security, in a road so well known to him[a]." Yet it is said of the great Duke of Marlborough, that ten years of such uninterrupted and splendid success as no other general could boast of, never betrayed him into a single rash action[b].

That boldness in Medical practice is more frequently the antecedent than the consequence of experience, is a melancholy truth; for it is generally founded either on theoretical dogmas, or on pride which disclaims au-

[a] Hume's *Inquiry concerning the Principles of Morals*, sect. vi. pt. 1. (or *Essays*, vol. ii. p. 272.)

[b] See Adam Smith's *Theory of Moral Sentiments*, pt. vi. sect. 3. vol. ii. p. 158.

thority. To the consideration of Physicians who are thus prematurely confident in their own powers, the remark of Lord Verulam[e] may be recommended: "This is well to be weighed, that boldness is ever blind; for it seeth not dangers and inconveniences: therefore it is ill in counsel, good in execution: so that the right use of bold persons is, that they never command in chief, but be seconds, and under the direction of others. For in counsel it is good to see dangers, and in execution not to see them, except they be very great."

NOTE II. Chap. ii. § 2. p. 48.

Temperance of Physicians.

"THOUGH much has been said, and with some truth, of the good effects of wine in producing rapidity and vivacity of thought, it has scarce ever been pretended that it favoured the exercise of discrimination and judgement. The only persons in whom it has ever been supposed not to have the very opposite effects, are some gentlemen of the Faculty. The ignorant vulgar would think *a priori*, that, *caeteris paribus*, a Physician who was sober, would attend more accurately to the case of his patient, and compare and distinguish all circumstances better, and judge more soundly and prescribe more rationally, than he could do when he was drunk. But some Physicians, who should be supposed to know themselves best, and who certainly must have known how they acquitted them-

[e] [*Essays*, § 12. (*Works*, vol. ii. p. 271.)]

selves in those different situations, have boasted that they prescribed as well drunk as sober. In this they could not be mistaken; for, whether we consider the matter physically or logically, their boast amounts precisely to this, that they prescribed no better when they were sober than they did when they were drunk; which is undoubtedly a noble accomplishment, but it is not surely either wonderful or rare[d]."

Tacitus, in his admirable treatise "De Situ, Moribus et Populis Germaniae," has stated, that those nations "de reconciliandis invicem inimicis, et jungendis affinitatibus, et adsciscendis principibus, de pace denique ac bello, plerumque in conviviis consultant: tamquam nullo magis tempore aut ad simplices cogitationes pateat animus, aut ad magnas incalescat. Gens non astuta nec callida, aperit adhuc secreta pectoris licentia loci. Ergo detecta et nuda omnium mens postera die retractatur; et salva utriusque temporis ratio est. Deliberant dum fingere nesciunt: constituunt dum errare non possunt[e]." (c. 22.)

In deliberation it may on some peculiar occasions be of importance to break off all former strong associations. A fit of drunkenness accomplishes this fully: sleep has the same tendency, and hence the proverb, "I will sleep upon it." But such deliberation bears no analogy to what is required from a Physician, when he is to consider the case of a patient.

[d] See the Introduction to *Philosophical and Literary Essays*, by Dr. James Gregory of Edinburgh, p. clxxxvii.

[e] The learned editor, Lipsius, observes in his note on this passage, "Persarum similis mos, ... et Cretensium, ... et Graecorum omnium veterum."

"Universal temperance," says Mr. Gisborne[f], "both in eating and drinking, is particularly incumbent on a Physician in every period of his practice, not merely as being essentially requisite to preserve his faculties in that alert and unclouded state which may render him equally able at all times to pronounce on the cases which he is called to inspect; but because it is a virtue which he will very frequently find himself obliged to inculcate on his patients, and will inculcate on them with little efficacy, if it be not regularly exemplified in his own conduct."

NOTE III. Chap. ii. § 3. p. 49.

"*A Physician should be the minister of hope and comfort to the sick.*"

Mr. Gisborne, in one of his interesting letters to me on the subject of Medical Ethics, suggests, that it would be advisable to add, *as far as truth and sincerity will admit.* "I know very well," says he, "that the sentence, as it now stands, conveys to you, and was meant by you to convey to others, the same sentiment which it would express after the proposed addition. But, if I am not mistaken in my idea that there are few professional temptations to which Medical men are more liable (and frequently from the very best principles,) than that of unintentionally using language to the patient and his friends more encouraging than sincerity would vindicate on cool reflection, it may be

[f] *Duties of Men*, chap. 12. vol. ii. p. 150.

right scrupulously to guard the avenues against such an error."

In the "Enquiry into the Duties of Men," the same excellent moralist thus delivers his sentiments more at large[g]. "A professional writer[h], speaking in a work already quoted[i] respecting the performance of Surgical operations in hospitals, remarks, that it may be a salutary as well as an humane act in the attending Physician, occasionally to assure the patient that every thing goes on well, *if that declaration can be made with truth.* This restriction, so properly applied to the case in question, may with equal propriety be extended universally to the conduct of a Physician, when superintending operations performed, not by the hand of a Surgeon, but by Nature and Medicine. Humanity, we admit, and the welfare of the sick man, commonly require that his drooping spirits should be revived by every encouragement and hope which can honestly be suggested to him. But truth and conscience forbid the Physician to cheer him by giving promises, or raising expectations, which are known or intended to be delusive. The Physician may not be bound, unless expressly required, invariably to divulge at any specific time his opinion concerning the uncertainty or danger of the case; but he is invariably bound never to represent the uncertainty or danger as less than he actually believes it to be; and

[g] Chap. 12. vol. ii. p. 159.

[h] [Gisborne calls him "an *eminent* writer." There is a similar instance of Percival's modesty below, p. 155.]

[i] Percival's *Medical Ethics*, chap. i. § 23.

whenever he conveys, directly or indirectly, to the patient or to his family, any impression to that effect, though he may be misled by mistaken tenderness, he is guilty of positive falsehood. He is at liberty to say little; but let that little be true. St. Paul's direction, *not to do evil that good may come*[k] is clear, positive, and universal."

Whether this subject be viewed as regarding general morality, or professional duty, it is of high importance; and we may justly presume that it involves considerable difficulty and intricacy, because opposite opinions have been advanced upon it by very distinguished writers. The ancients, though sublime in the abstract representations of virtue, are seldom precise and definite in the detail of rules for its observance. Yet in some instances they extend their precepts to particular cases; and Cicero, in the third book of his "Offices," expressly admits of limitations to the absolute and immutable obligation of fidelity and truth. (cc. 24, 25.)

The maxim of the poet, also, may be adduced as intended to be comprehensive of the moral laws, by which human conduct is to be governed:—

> "Sunt certi denique fines,
> Quos ultra citraque nequit consistere rectum[l]."

The early Fathers of the Christian Church, Origen, Clement, Tertullian, Lactantius, Chrysostom, and various others, till the period of St. Augustine, were latitudinarians on this point. But the holy father last men-

[k] [Rom. iii. 8.]

[l] Horace, *Sat.* i. 1. 106.

tioned, if I mistake not, in the warmth of his zeal, declared that he would not utter a lie, though he were assured of gaining Heaven by it[m]. In this declaration there is a fallacy, by which Augustine probably imposed upon himself: for a lie is always understood to consist in a *criminal* breach of truth, and therefore under no circumstances can be justified. It is alleged, however, that falsehood may lose the essence of lying, and become even praiseworthy, when the adherence to truth is incompatible with the practice of some other virtue of still higher obligation. This opinion almost the whole body of civilians adopt, with full confidence of its rectitude. The sentiments of Grotius may be seen at large in the satisfactory detail which he has given of the controversy relating to it[n].

Puffendorff, who may be regarded as next to this great man in succession as well as authority, delivers the following observations in his "Law of Nature and Nations," which are pointedly applicable to the present subjects, yet carried assuredly to a very reprehensible extent:—"Since those we talk to may often be in such circumstances, that, if we should tell them the downright truth of the matter, it would prejudice them, and would incapacitate us for procuring that lawful end we propose to ourselves for their good; we may in these cases use a fictitious or figurative way of speech, which shall not directly represent to our hearers our

[m] [Alluding perhaps to *De Mendac.* c. 21. § 42. tom. vi. p. 444. ed. Bened., or to *Cont. Mendac.* c. 20. § 40. tom. vi. p. 472; but if so, St. Augustine's meaning is not quite correctly given in the text.]

[n] *De Jure Belli ac Pacis*, lib. iii. cap. 1. sect. 10 [9?] §§ 2—4.—See also cap. 1. sect. 14—16.

real thoughts and intentions: for, when a man is desirous, and it is his duty, to do a piece of service, he is not bound to take measures that will certainly render his attempts unsuccessful[o]."—"Those are by no means guilty of lying, who, for the better information of children, or other persons not capable of relishing the naked truth, entertain them with fictions and stories; nor those who invent something that is false, for the sake of a good end, which by the plain truth they could not have compassed; as, suppose, for protecting an innocent, for appeasing a man in his passion, for *comforting the afflicted*, for *animating the timorous*, for *persuading a nauseating patient to take his physic*, for overcoming an obstinate humour, for making an ill design miscarry[p]."

Several modern ethical writers of considerable celebrity have been no less explicit and indulgent on this question. Amongst these it may suffice to cite the testimony of the late Dr. Francis Hutcheson of Glasgow; of whom it is said by his excellent biographer, that "he abhorred the least appearance of deceit either in word or action[q]." "When in certain affairs," says he, "'tis known that men do not conceive it an injury to be deceived, there is no crime in false speech about such matters.....No man censures a Physician for deceiving a patient too much dejected, by expressing good hopes of him, or by denying that he gives him

[o] Spavan's Puffendorff, vol. ii. chap. 1. p. 6.
[p] *Ibid.* p. 9.
[q] Leechman's biographical Preface to Hutcheson's *System of Moral Philosophy*, p. xxiv.

a proper medicine which he is foolishly prejudiced against: the patient afterwards will not reproach him for it.....Wise men allow this liberty to the Physician in whose skill and fidelity they trust: or if they do not, there may be a just plea from necessity[r]."—" These pleas of necessity some would exclude by a maxim of late received, *We must not do evil that good may come of it.* The author of this maxim is not well known. It seems, by a passage in St. Paul[s], that Christians were reviled as teaching, that, since the mercy and veracity of GOD were displayed by the obstinate wickedness of the Jews, they should continue in sin that this good might ensue from it. He rejects the imputation upon his doctrine; and hence some take up the contradictory proposition as a general maxim of great importance in morality. Perhaps it has been a maxim among St. Paul's enemies, since they upbraid him with counteracting it. Be the author who they please, the sentence is of no use in morals, as it is quite vague and undetermined. Must one do nothing for a good purpose, which would have been evil without this reference? 'Tis evil to hazard life without a view to some good; but, when 'tis necessary for a public interest, 'tis very lovely and honourable. 'Tis criminal to expose a good man to danger for nothing; but 'tis just even to force him into the greatest dangers for his country. 'Tis criminal to occasion any pains to innocent persons, without a view to some good; but for restoring of health we reward chirurgeons for scarifyings, burnings,

[r] *System of Moral Philosophy*, bk. ii. ch. 10. § 4. vol. ii. p. 32.
[s] [Rom. iii. 8.]

and amputations. 'But,' say they, 'such actions, done for these ends, are not evil. The maxim only determines that we must not do, for a good end, such actions as are evil even when done for a good end.' But this proposition is identic and useless; for who will tell us next, what these actions, sometimes evil, are, which may be done for a good end? and what actions are so evil that they must not be done even for a good end? The maxim will not answer this question; and truly it amounts only to this trifle; *you ought not for any good end to do what is evil, or what you ought not to do, even for a good end*[t]."

Dr. Johnson, who admits of some exception to the law of truth, strenuously denies the right of telling a lie to a sick man for fear of alarming him. "You have no business with consequences," says he; "you are to tell the truth. Besides, you are not sure what effect your telling him that he is in danger may have. It may bring his distemper to a crisis, and that may cure him. Of all lying I have the greatest abhorrence of this, because I believe it has been frequently practised on myself[u]."

If the Medical reader wishes to investigate this nice and important subject of casuistry, he may consult Grotius *De Jure Belli ac Pacis*, Puffendorff, Grove's *Ethics*, Balguy's *Law of Truth*, Fénelon's *Telemachus*, Butler, Hutcheson, Paley, and Gisborne. Every practitioner must find himself occasionally in circumstances of very delicate embarrassment, with

[t] *System of Moral Philosophy*, bk. ii. ch. 17. § 7. vol. ii. p. 132.
[u] See Boswell's *Life of Johnson*, June 13. 1784.

respect to the contending obligations of veracity and professional duty; and when such trials occur, it will behove him to act on fixed principles of rectitude, derived from previous information and serious reflection. Perhaps the following brief considerations, by which I have conscientiously endeavoured to govern my own conduct, may afford some aid to his decision.

Moral truth, in a professional view, has two references; one to the party to whom it is delivered, and another to the individual by whom it is uttered. In the first, it is a *relative* duty, constituting a branch of justice; and may be properly regulated by the Divine rule of equity prescribed by our SAVIOUR, to do unto others, as we would (all circumstances duly weighed,) they should do unto us[x]. In the second, it is a *personal* duty, regarding solely the sincerity, the purity, and the probity of the Physician himself. To a patient, therefore, (perhaps the father of a numerous family, or one whose life is of the highest importance to the community,) who makes enquiries, which, if faithfully answered, might prove fatal to him, it would be a gross and unfeeling wrong to reveal the truth. His right to it is suspended, and even annihilated; because, its beneficial nature being reversed, it would be deeply injurious to himself, to his family, and to the public: and he has the strongest claim, from the trust reposed in his Physician, as well as from the common principles of humanity, to be guarded against whatever would be detrimental to him. In such a situation,

[x] [St. Matth. vii. 12.]

therefore, the only point at issue is, whether the practitioner shall sacrifice that delicate sense of veracity, which is so ornamental to, and indeed forms a characteristic excellence of, the virtuous man, to this claim of Professional justice and social duty. Under such a painful conflict of obligations a wise and good man must be governed by those which are the most imperious; and will therefore generously relinquish every consideration referable only to himself. Let him be careful, however, not to do this, but in cases of real emergency, which happily seldom occur; and to guard his mind sedulously against the injury it may sustain by such violations of the native love of truth.

I shall conclude this long note with the two following very interesting biographical facts. The husband of the celebrated Arria, Caecina Paetus, was very dangerously ill. Her son was also sick at the same time, and died[y]. He was a youth of uncommon accomplishments, and fondly beloved by his parents. Arria prepared and conducted his funeral in such a manner, that her husband remained entirely ignorant of the mournful event which occasioned that solemnity. Paetus often enquired with anxiety about his son; to whom she cheerfully replied, that he had slept well, and was better. But if her tears, too long restrained, were bursting forth, she instantly retired, to give vent to her grief; and when again composed, returned to Paetus with dry eyes and placid countenance, quitting, as it were, all the tender feelings of the mother at the threshold of her husband's chamber.

y Pliny, *Epist.* iii. 16.

"Lady Russell's only son, Wriothesley, Duke of Bedford, died of the small-pox in May 1711, in the 31st year of his age[z].....To this affliction succeeded, in Nov. 1711, the loss of her daughter, the Duchess of Rutland, who died in child-bed. Lady Russell, after seeing her in the coffin, went to her other daughter, married to the Duke of Devonshire, from whom it was necessary to conceal her grief, she being at that time in child-bed likewise; therefore she assumed a cheerful air, and with astonishing resolution, [verbally] agreeable to truth, answered her anxious daughter's enquiries with these words: 'I have seen your sister out of bed to-day.'"

NOTE IV. Chap. ii. § 5. p. 50.

"*The practice of a prior Physician should be treated with candour, and justified, so far as truth and probity will permit.*"

MONTAIGNE in one of his "Essays" treats with great humour of Physic and Physicians; and makes it a charge against them, that they perpetually direct variations in each other's prescriptions. "Who ever saw," says he, "one Physician approve of another's prescription, without taking something away, or adding something to it? By which they sufficiently betray their art, and make it manifest to us that they therein more consider their own reputation, and consequently their profit, than their patients' interest[a]."

[z] Lady Rachel Russell's *Letters;* Note to Letter 149.
[a] *Essays*, bk. ii. ch. 37. p. 703. [654. ed. 1711.]

NOTE V. Chap. ii. § 9. p. 53.

Theoretical discussions should be generally avoided.

THIS rule is not only applicable to consultations, but to any reasonings on the nature of the case and of the remedies prescribed, either with the patient himself or his friends. It is said by my lamented friend Mr. Seward in his entertaining "Anecdotes," that the late Lord Mansfield gave this advice to a military gentleman, who was appointed Governor of one of our islands in the West Indies, and who expressed his apprehensions of not being able to discharge his duty as chancellor of his province: "Always decide, and never give reasons for your decision. You will in general decide well; yet give very bad reasons for your judgement[b]."

NOTE VI. Chap. ii. § 11. p. 54.

Regular academical education.

"IT is the general opinion," says Dr. Johnson[c], "that Sydenham was made a physician by accident and necessity; and Sir Richard Blackmore reports in plain terms[d], that he engaged in practice without any preparatory study, or previous knowledge, of the Medicinal sciences; and affirms, that, when he was consulted by him what books he should read to qualify him for the said profession, he recommended *Don Quixote*. That he recommended Don Quixote to

[b] *Anecdotes of some Distinguished Persons*, vol. ii. p. 386.
[c] *Life of Sydenham*. (*Works*, vol. xii. p. 182.)
[d] In the Preface to his *Treatise upon the Small-Pox*.

Blackmore," continues Dr. Johnson, "we are not allowed to doubt; but the relater is hindered, by that self-love which dazzles all mankind, from discovering that he might intend a satire very different from a general censure of all the ancient and modern writers on Medicine; since he might perhaps mean, either seriously or in jest, to insinuate that Blackmore was not adapted by nature to the study of Physic, and that, whether he should read Cervantes or Hippocrates, he would be equally unqualified for practice, and equally unsuccessful in it. Whatsoever was his meaning, nothing is more evident than that it was a transient sally of an imagination warmed with gaiety, or the negligent effusion of a mind intent upon some other employment, and in haste to dismiss a troublesome intruder." Sydenham himself has declared[e], that, after he determined upon the profession of Physic, he applied in earnest to it, and spent several years in the University of Oxford, before he began to practise in London. He travelled afterwards to Montpelier in quest of more information; "so far was he from any contempt of academical institutions, and so far from thinking it reasonable to learn Physic by experiments alone, which must necessarily be made at the hazard of life[f]."

But it is highly injurious to the usefulness and honour of the Profession, to suppose the education of a Physician may be confined to the pursuit of Medicine as an *art*. Sir William Blackstone, in

[e] [In the Dedication to his *Observationes Medicae*.]
[f] Johnson's *Life of Sydenham*, p. 183.

the Introduction to his "Commentaries on the Laws of England[s]," has reprobated the custom of placing the juridical student "at the desk of some skilful attorney, in order to initiate him early in all the depths of practice, and render him more dexterous in the mechanical part of business." This illiberal path to the bar is not to be sanctioned, he observes, by a few particular instances of persons, who, through the force of transcendent genius, have been able to overcome every disadvantage. And he points out, in very forcible terms and with sound argument, how essential it is to the lawyer to form his sentiments by the perusal of the purest classical authors; to learn to reason with precision, by the simple but clear rules of unsophisticated logic; to fix the attention, and steadily to pursue truth through the most intricate deductions, by an acquaintance with mathematical demonstration; and to acquire enlarged conceptions of nature and of art, by a view of the several branches of experimental philosophy. Now, if this be the *vantage ground*, (to adopt the language of Lord Bacon,) from which the study of the Law should commence, it ought to be deemed at least equally necessary to qualify for the prosecution of Medicine—a science which has man, as a compound of matter and mind, for its subject, and an infinitude of substances derived from the animal, vegetable, and mineral kingdoms for its instruments. This sentiment seems to have been early prevalent in the celebrated school of Physic, established at Salerno in Italy. For it was enacted, A.D. 1237, by the heads of colleges

s [§ 1. vol. i. p. 32.]

there, that the pupils should be bound to pass three years in the acquisition of philosophy, and five subsequent years in that of Medicine[h]. The like regulations were afterwards adopted in other Universities; but in various countries have fallen into disuse.

On the first revival of learning in Europe, science was held in the highest estimation; and the three faculties of Law, Physic, and Divinity assumed particular honours and privileges. Academical degrees were conferred on their members; and these titles, with the rank annexed to them, were admitted *ubique gentium;* being, like the order of knighthood, of universal validity. Doctors indeed contended sometimes with knights for precedence, and the disputes were not unfrequently terminated by advancing the former to the dignity of knighthood. It was even asserted that a doctor had a right to that title without creation[i].

[h] See Bulæi *Hist. Univers. Paris.*, tom. iii. p. 158; Henry's *Hist. of Great Britain*, bk. iv. ch. 4. § 1. vol. viii. p. 206.

Dr. Freind has given a somewhat different account of the celebrated School of Salerno:—"Sunt in eo decem Doctores, qui sibi invicem, juxta creationis ordinem, succedunt. Candidatorum examinatio severissima est, quae fit aut in Galeni *Therapeuticis*, aut in primo primi *Canonis* Avicennae, aut in *Aphorismis*. Is qui Doctoratum ambit unum ac viginti annos habere debet, (verum hic lapsum subesse autumo, cum scribendum sit *viginti quinque* vel *septem*,) ac testimonia proferre, quae per septem annos eum Medicinae studuisse doceant. Quod si inter Chirurgos recipi cupiat, anatomiam per anni spatium didicisse hunc oportet: jurandum ei est, fidelem se ac morigerum Societati futurum, praemia a pauperibus oblata recusaturum, neque Pharmacopolarum lucri participem fore. Tum liber in ejus manum traditur, annulus digito induitur, caput laurea redimitur, atque ipse osculo dimittitur. Multa alia statuta sunt ad praxeos ordinationem pertinentia; Pharmacopolae praesertim, ut juxta Medici praecepta componant medicamenta, et ut ea certo pretio divendant, obligantur." *Hist. Medic.* (in *Oper. Med.* p. 537.)

[i] Consult Seb. Bacmeisteri *Antiq. Rostock.* [in Westphalen's *Mo-*

NOTE VII. Chap. ii. § 15. p. 57.

Pecuniary acknowledgements.

THE following fact is applicable to the professional conduct of Physicians towards their friends:—"When Addison was in office, [under the earl of Wharton, as Lord Lieutenant of Ireland,] he made a law to himself, as Swift has recorded, never to remit his regular fees in civility to his friends: 'for,' said he, 'I may have a hundred friends; and, if my fee be two guineas, I shall, by relinquishing my right, lose two hundred guineas, and no friend gain more than two; there is therefore no proportion between the good imparted, and the evil suffered[j].'" In recording Mr. Addison's *prudential* conduct, his probity, with respect to pecuniary acknowledgements, should not be unnoticed. In a letter, relative to the case of Major Dunbar, he says:—"And now, Sir, believe me, when I assure you, I never did, nor ever will, on any pretence whatsoever, take more than the stated or customary fees of my office. I might keep the contrary practice concealed from the world, were I capable of it; but I could not from myself; and I hope I shall always fear the reproaches of my own heart, more than those of all mankind[k]."

num. Ined. Rer. German., tom. iii.]; Crevier, *Hist. de l' Univers. de Paris.*, tome i. p. 96; and Robertson's *Hist. of Charles V.*, vol. i. Note 28.

[j] Johnson's *Life of Addison.* (*Works*, vol. x. p. 85.)

[k] *Ibid.* (?)

At a period when empirics and empiricism seem to have prevailed much in Rome, the exorbitant demands of Medical practitioners, particularly for certain secret compositions which they dispensed, induced the Emperor Valentinian to ordain, that no individual of the Faculty should make an express charge for his attendance on a patient, nor even avail himself of any promise of remuneration during the period of sickness; but that he should rest satisfied with the donative voluntarily offered at the close of his ministration[1]. By the same law, however, the Emperor provided that one practitioner, at least, should be appointed for each of the fourteen sections into which the Roman metropolis was divided, with special privileges, and a competent salary for his services; thus indirectly, yet explicitly, acknowledging that a Physician has a full claim in equity to his professional emoluments. Is it not reasonable, therefore, to conclude, that what subsisted as a *moral* right, ought to have been demandable, under proper regulations, as a *legal* right? For it seems to be the office of law to recognise and enforce that which natural justice recognises and sanctions.

The Roman advocates were subject to the like restrictions, and from a similar cause; for their rapacity occasioned the revival of the Cincian Law, "qua cavetur antiquitus, ne quis ob causam orandam pecuniam donumve accipiat." But Tacitus relates, that, when the subject was brought into discussion

[1] See *Cod. Theodos.* xiii. 3. § 8.

before Claudius Caesar, amongst other arguments in favour of receiving fees, it was forcibly urged, "sublatis studiorum pretiis, etiam studia peritura;" and that, in consequence, the prince "capiendis pecuniis posuit modum, usque ad dena sestertia, quem egressi repetundarum tenerentur[m]."

A precise and invariable *modus*, however, would be injurious both to the barrister and the Physician, because the fees of each ought to be measured by the value of his time, the eminence of his character, and by his general rule of practice. This rule, with its antecedents, being well known, a *tacit compact* is established, restrictive on the claims of the practitioner, and binding on the probity of the patient. Law cannot properly by its ordinances establish the custom, which will and ought to vary in different situations and under different circumstances. But a court of judicature, when formally appealed to, seems to be competent to authorize it if just, and to correct it if unjust. Such decisions could not wholly change the honorary nature of fees; because they would continue to be increased at the discretion of the affluent, according to their liberality and grateful sense of kind attentions; and diminished at the option of the Physician to those who may from particular circumstances require his beneficence.

From the Roman code the established usage in different countries of Europe relative to Medical fees has probably originated. This usage, which constitutes

[m] *Annal.* xi. 5, 7.

common law, seems to require considerable modification to adapt it to the present state of the Profession. For the general body of the Faculty, especially in the united kingdom of Great Britain and Ireland, are held in very high estimation on account of their liberality, learning, and integrity[n]; and it would be difficult to assign a satisfactory reason why they should be excluded from judicial protection, when the just remuneration of their services is wrongfully withheld. Indeed a Medical practitioner (one especially who is settled in a provincial town, or in the country,) may have accumulated claims from long-protracted and often expensive attendance; and his pecuniary acknowledgements may be refused from prejudice, from captiousness,[q] from parsimony, or from dishonesty. Under such circumstances considerations of benevolence, humanity, and gratitude, are wholly set aside; because, when disputes arise, they must be suspended or extinguished, and the question at issue can

[n] Of this truth it has been my duty and inclination to offer several proofs, of unquestionable authority, in different parts of the present work. Two additional ones now occur to my recollection, which I shall here insert. Mr. Pope, writing to Mr. Allen concerning his obligations to Dr. Mead and other Physicians, about a month before his death, says:—"There is no end of my kind treatment from the Faculty. They are in general the most amiable companions and the best friends, as well as the most learned men I know."—The Rev. Dr. Samuel Parr, in a letter, with which he honoured me in September 1794, thus expresses himself:—"I have long been in the habit of reading on Medical subjects; and the great advantage I have derived from this circumstance is, that I have found opportunities for conversation and friendship with a class of men, whom, after a long and attentive survey of literary characters, I hold to be the most enlightened professional persons in the whole circle of human arts and sciences."

alone be decided on the principles of *commutative justice.*

NOTE VIII. Chap. ii. § 30. p. 65.

Public worship; scepticism and infidelity.

THE neglect of social worship, with which Physicians have been too justly charged, may be traced in many instances to the period of their academical education, particularly in the Universities, where young men are permitted to live at large, and are subject to no collegiate discipline. Sunday, affording a recess from public lectures, is devoted by those who are ardent in study to a review of the labours of the past week, to preparations for Medical or scientific discussions in the societies of which they are members, or to other pursuits, belonging to their Profession, but unconnected with Religion. The idle and the gay in such situations are eager to avail themselves of opportunities so favourable to their taste for recreation, or to their aversion to business and confinement. In each of these classes, though actuated by different principles, there is much danger that devotional impressions will be gradually impaired for want of stated exercise and renewal; and a foundation will thus be laid for habitual and permanent indifference in future life to Divine services, whenever Medical avocations furnish a *salvo* to the mind, and a plausible excuse to the world, for non-attendance on them. This coldness of heart, this

moral insensibility, should be sedulously counteracted before it has acquired an invincible ascendancy. No apology should be admitted for absence from the stated offices of piety, but that of duties to be performed of immediate and pressing necessity. When the church is entered with just views, it will be found that there is a sympathy in religious homage, which at once inspires and heightens devotion; and that to hold communion with GOD in concert with our families, our friends, our neighbours, and our fellow citizens, is the highest privilege of human nature. But, with a full conviction of the obligation of public worship, as a social institution founded on common consent, and enjoined by legal authority; as a moral duty connecting us by the most endearing ties with our brethren of mankind, who are joint dependants with ourselves on the pardon, the protection, and the bounty of GOD; and as a debt of general homage to our Creator, Benefactor, and Judge; yet there may subsist in a devout and benevolent mind scruples respecting doctrines and forms, sufficient to produce an alienation from the sacred offices of the temple. Such doubts, when they originate from serious enquiry, and are not the result of fastidiousness or arrogance, have a claim to tenderness and indulgence; because to act in contradiction to them, whilst they subsist, would be a violation of sincerity, amounting in some cases to the guilt of hypocrisy. But in a country where private judgement is happily under no restraint, and where so great a diversity of sects prevails, it will be strange if a candid

and well-informed man can find no Christian denomination, with which he might accord in spirit and in truth. Sir Thomas Brown, in the statement which he has given in his "Religio Medici*," seems to have allowed himself on these points very extensive latitude:—"We have reformed *from* them, [viz. the Papists,] not against them;..... and therefore I am not scrupulous to converse and live with them, to enter their churches in defect of ours, and either pray *with* them or for them. I could never perceive ..... that a resolved conscience may not adore her Creator any where, especially in places devoted to His service; where, if *their* devotions offend Him, mine may please Him; if theirs profane it, mine may hallow it ..... I could never hear the *Ave-Mary* bell without an elevation, or think it a sufficient warrant, because *they* erred in one circumstance, for me to err in all,—that is, in silence and dumb contempt: whilst therefore *they* directed their devotions to *her*, I offered mine to GOD, and rectified the errors of *their* prayers by rightly ordering my own."

But authority much more respectable than that of Sir Thomas Brown may be adduced in favour of the spirit of catholicism in Christian communion. Mr. Locke, a short time before his death, received the Sacrament according to the rites of the Church of England, though it is evident from his writings that he dissented from many of her doctrines. When the office was finished, he told the minister, "that he wa

* Pt. i. § 3.

in the sentiment of perfect charity towards all men, and of a sincere union with the Church of CHRIST, under whatever name distinguished[p]."—Dr. David Hartley was originally intended for the clerical profession, but was prevented from going into holy orders by his scruples concerning subscription to the Thirty-nine Articles. He continued, however, to the end of his life, a well-affected member of the Establishment, approving of its practical doctrines, and conforming to its public worship. He was a Catholic Christian, says his son and biographer, in the most extensive and literal sense of the term. On the subject of religious controversy he has left the following testimony of his sentiments:—"The great differences of opinion and contentions, which happen on religious matters, are plainly owing to the violence of men's passions more than to any other cause. When Religion has had its due effect in restraining these, and begetting true candour, we may expect a unity of opinion both in religious and other matters, as far as is necessary for useful and practicable purposes."

These examples of the conduct of wise and conscientious Christians evince, that, in their estimation, forms, ceremonies, and doctrines, are of a moment subordinate to the benefits and obligations of social worship. But they are not adduced to sanction an *indifference*, either to religious rites, or religious truth. The mind will always be in the best frame for holy exercises, when the modes by which they are conducted

[p] See *Biographia Britannica.*

are consonant to its sentiments of propriety and rectitude; and that church should be habitually resorted to, if practicable, the public services of which accord most satisfactorily with the views of the individual, concerning the attributes of GOD, and the revelation of His will and promises to man. No personal friendship, no party connection, no professional interest should be allowed to predominate in the choice. For genuine piety, which is the joint offspring of reason and of sentiment, admits of no substitutions. It consists in a full conviction of the understanding, accompanied with correspondent affections of the heart; and in its exercises calls forth their united and noblest energies.

It will not be foreign to the subject of this note to investigate briefly, the imputation of scepticism and infidelity, which has been laid against the Medical Faculty. The Rev. Dr. Samuel Parr, whose candour is unquestionable, and whose learning and genius entitle him to the highest respect, has lately sanctioned it, as will appear by the following passage from his "Remarks on the Statement of Dr. Charles Combe," (p. 82[q]):—"While I allow," says he, "that peculiar and important advantages arise from the appropriate studies of the three liberal professions, I must confess, that in erudition, in science, and in habits of deep and comprehensive thinking, the pre-eminence in some degree must be assigned to Physicians. The propensity which some of them have shewn to scepticism upon

[q] [Or *Works*, vol. iii. p. 485.]

religious topics is indeed to be seriously lamented; and it may be satisfactorily explained, I think, upon metaphysical principles, which evince the strength rather than the weakness of the human mind, when contemplating under certain circumstances the multiplicity and energy of physical causes. But I often console myself with reflecting on the sounder opinions of Sir Thomas Brown, Sydenham, Boerhaave, and Hartley, in the days that are past: and of our own times posterity will remember that they were adorned by the virtues, as well as the talents, of a Gregory, a Heberden, a Falconer[r], &c."

Mr. Gisborne, in his "Enquiry into the Duties of Men, in the Higher and Middle Classes of Society[s]," a work to which I have already referred, as an admirable system of practical and appropriate ethics,) has very explicitly and forcibly delivered his sentiments on this interesting subject. "The charge," he says, "may have been made on partial and insufficient grounds; but the existence of it should excite the efforts of every conscientious Physician to rescue himself from the general stigma. It should stimulate him, not to affect a sense of Religion which he does not entertain, but openly to avow that which he actually feels.....If the charge be in some measure true, it is of importance to the Physician to ascertain the causes from which the fact has originated, that he may be the more on his guard against their influence. The following circum-

[r] [Dr. Parr adds, "and a *Percival*." See above p. 133.]
[s] Chap. 12. vol. ii. p. 191.

stances may not have been without their weight. They who are accustomed to deep researches into any branch of philosophical science; and find themselves able to explain to their own satisfaction almost every phenomenon, and to account (as they apprehend,) for almost every effect by the operation of such causes as in ordinary language are termed *natural*, are apt to acquire extravagant ideas of the sufficiency of human reason on all subjects: and thus learning to doubt the necessity, become prejudiced against the belief, of Divine Revelation. In the next place, they who justly disclaim the empire of authority in Medical theories, may carelessly proceed to regard religious doctrines as theories, resting on no other foundation, and deserving of no better fate. Thirdly, it is to be observed, that men may be divided into two distinct classes, with respect to the sort of testimony on which they receive truths of any kind. They who are chiefly addicted to investigations and reasonings founded on analogy, look primarily and with extreme partiality to that species of evidence; and, if the thing asserted appears contrary to the common course of nature, more especially if it militate against any theory of their own, (and such persons are much disposed to theorize,) they are above measure reluctant to admit the reality of it, and withhold their assent until such a number of particular proofs, incapable of being resolved into fraud or misconception, is produced, as would have been far more than sufficient to convince an unbiassed understanding: whereas other men, little used to analogi-

cal enquiries, look not around for such testimony either in support or in refutation of an extraordinary circumstance affirmed to them; but readily give credit to the fact on its own distinct proofs, or from confidence in the veracity and discernment of the relator. It is evident that Physicians are to be ranked in the class first described, and are consequently liable to its prejudices: and it is equally evident that those prejudices will render all on whom they fasten, particularly averse to recognise the truth of miracles; and will probably prevent them from examining with impartiality the evidence of a religion founded on miracles, and perhaps from examining it at all. Fourthly, to the preceding circumstances must be added the neglect of Divine worship too customary among persons of the Medical profession. This neglect seems to have contributed not only to excite and to strengthen the opinion of their scepticism and infidelity, but sometimes to produce scepticism and infidelity itself; for it is a natural progress, that he who habitually disregards the public duties of Religion, should soon omit those which are private, should speedily begin to wish that Christianity may not be true, should then proceed to doubt its truth, and at length should disbelieve it."

The late Dr. [John] Gregory of Edinburgh, anxious to support the honour of a profession which he loved, and of which he was a distinguished ornament, very strenuously repels the charge against it of scepticism and infidelity. Though his excellent Lectures are

doubtless in the hands of most Physicians, yet I am tempted to make a transcript from them, because I wish the present important subject to be viewed in the several lights in which it has been presented to the mind by different writers of acknowledged probity, information, and judgement. "I think the charge," he observes[t], "ill founded, and will venture to say, that the most eminent of our Faculty have been distinguished for real piety. I shall only mention as examples, Harvey, Sydenham, Arbuthnot, Boerhaave, Stahl, and Hoffmann.—It is easy, however, to see whence this calumny has arisen. Men whose minds have been enlarged by knowledge, who have been accustomed to think, and to reason upon all subjects with a generous freedom, are not apt to become bigots to any particular sect or system. They can be steady to their own principles, without thinking ill of those who differ from them; but they are impatient of the authority and control of men, who would lord it over their consciences, and dictate to them what they are to believe. This freedom of spirit, this moderation and charity for those of different sentiments, have frequently been ascribed by narrow-minded people to secret infidelity, scepticism, or, at least, to lukewarmness in Religion; while some who were sincere Christians, exasperated by such reproaches, have sometimes expressed themselves unguardedly, and thereby afforded their enemies a handle to calumniate them. This, I imagine, has been the real source of that charge

[t] Lect. 2. p. 64.

of infidelity, so often and so unjustly brought against Physicians..... The study of Medicine[u], of all others, should be the least suspected of leading to impiety. An intimate acquaintance with the works of Nature raises the mind to the most sublime conceptions of the Supreme Being; and at the same time dilates the heart with the most pleasing views of Providence. The difficulties that necessarily attend all deep enquiries into a subject so disproportionate to the human faculties, should not be suspected to surprise a Physician, who, in his practice, is often involved in perplexity, even in subjects exposed to the examination of his senses.

"There are, besides, some peculiar circumstances in the profession of a Physician, which should naturally dispose him to look beyond the present scene of things, and engage his heart on the side of Religion. He has many opportunities of seeing people, once the gay and the happy, sunk in deep distress, sometimes devoted to a painful and lingering death, and sometimes struggling with the tortures of a distracted mind. Such afflictive scenes, one would imagine, might soften any heart, not dead to every feeling of humanity, and make it reverence that Religion, which alone can support the soul in the most complicated distresses; that Religion, which teaches to enjoy life with cheerfulness, and to resign it with dignity."

The judicious and animated considerations which are here delivered, could proceed only from a mind

[u] Lect. 2. p. 68.

actuated by the principles of virtue and Religion; and I trust the great majority of Physicians have their feelings in unison with those of the amiable writer I have quoted. But there may be some who have been hardened to moral apathy by the very causes which should excite benevolence and piety. It has been well remarked by divines and metaphysicians, that *passive impressions* become progressively weaker by frequent recurrence; and that the heart is liable to grow callous to scenes of horror and distress, and even to the view of death itself. This law of nature is intended by the wise and benignant Author of our frame to answer the most salutary purposes, by co-operating with another of equal, perhaps superior, force: for *active propensities* are formed and gradually strengthened by the like renewal of the circumstances which excite them. The love of goodness is thus rendered habitual; and rectitude of conduct is steadily and uniformly pursued without struggle or perturbation.

The human character then attains the highest excellence of which this probationary state is capable; and perhaps the Medical profession is more favourable than any other to the formation of a mental constitution, that unites in it very high degrees of intellectual and moral vigour; because it calls forth the steady and unremitting exertions of benevolence, under the direction of cultivated reason; and, by opening a wider and wider sphere of duty, progressively augments their reciprocal energies. But the connection between the laws of impression, and of habit, is not

so determinate and necessary as to be wholly independent of the agent who is under their influence. By a perversion of the understanding and the will, they may be, and sometimes are, separated. The affections also, when the temperament is phlegmatic, subsist only in a languid state; and are too evanescent to produce a permanently correspondent frame of mind. If with this coldness of heart a sceptical turn of thinking happen to be associated, either constitutionally or from the casualties of study and connections, virtuous principles will gradually decay; all the tender charities of life will soon be extinguished; a future state will be either disbelieved or regarded with indifference; and practical atheism will ensue, with the whole train of evils which result from a denial of the creative agency of GOD, or His Divine administration. Allowing this to be an extreme and barely possible case, (a concession which I am solicitous to grant to my countrymen, notwithstanding what has been fatally experienced in a neighbouring kingdom,) yet different gradations towards it may subsist, and the first step should be avoided with sedulous care. The countervailing power of Religion is here essentially necessary, because nothing besides can furnish motives to rectitude, of adequate dignity, weight, and authority. To restore the impressions of piety which have been lost or impaired, without falling into the fervours of enthusiasm, or the gloom of superstition, may be an arduous task, a task that will require time and perseverance to accomplish. But the attainment will amply repay the

labour, by the sweet satisfaction which a Physician cannot fail to derive from the consciousness that he exercises his profession under the inspection of a Being Who approves and will reward every effort to acquire His favour by doing good to mankind. In his offices of humanity, he will feel an interest and elevation, of which those can have no conception who regard the human race, (and consequently the sufferers under their care,) not as the offspring of GOD, or as expectants of immortality, but as the creatures of a day, formed by the casual concourse or the natural appetencies of atoms, and born only to perish. Such degrading and unhappy notions often spring from a love of paradox, a passion for novel hypothesis, ambition to be victorious in subtle disputation, and a contempt for established authority, accompanied for the most part with an implicit submission to empirics in science, who dogmatize most when they assume the mask of scepticism. To the successful pursuit of truth it is necessary to bring a well-disciplined mind, modest and sober in its views, and uninfluenced not only by vulgar, but by philosophical prejudices, which are far more dangerous, because more plausible and fascinating. When subjects which relate to theology are investigated, reverence and humility should be associated with all our reasonings. No practice is more subversive of devotional sentiment, than that of carrying into religious discussions the licentiousness of thought and expression, which young Physicians are too apt to indulge on Medical topics. He who can suffer himself

to treat his Maker with indifference and with levity, whether it be in utterance or in contemplation, will soon lose the religious impressions of reverence, gratitude and love; and his mind will then be prepared for the systems of impiety and atheism, which of late have been so boldly promulgated under the imposing name of philosophy. Productions of this class should be shunned, even by those who are thoroughly grounded in rational faith; because familiarity with them can hardly fail to impair the moral sensibilities of the heart. They are "evil communications," which forcibly tend to "corrupt good manners."

To the comprehensive view of a well-educated Physician, the Divine Being will appear, with the fullest manifestation, in all without and all within him. Through the several kingdoms of nature, with which he is intimately acquainted, he traces every where design, intelligence, power, wisdom, and goodness; and in the frame of his own body, as well as in the constitution of his mental faculties, he finds especial reason to conclude, that, above all the other works of the creation, "he is fearfully and wonderfully made[v]." The daily offices of his profession disclose to him irrefragable proofs of the providence and moral government of God. Health, as consisting in the soundness and vigour of the bodily organs, and in their complete aptitude for exertion and enjoyment, is doubtless of inestimable consideration. But the occasional suspension of this blessing may be necessary to obviate the

[v] [Ps. cxxxix. 14.]

abuses to which it is liable, to evince its high value, to remedy the injuries it may have sustained, and to insure its future more permanent duration. A strong constitution is too often made subservient to sensuality, ebriety, and other licentious indulgences, which, if not seasonably interrupted by the experience of consequential suffering, would prove destructive to the animal economy, and bring on premature decrepitude or death. Diseases, under these circumstances, furnish a beneficial restraint, and preserve the mind from contamination, whilst they are often the remedies which nature has kindly provided for the restoration of the vital functions. A good, which has been lost and beneficently restored, will be prized according to its high desert; and, being cherished with assiduous care, will be prolonged and applied to its proper uses in the great business of life. But sickness, it must be acknowledged, is not always remedial in its tendency; and frequently produces degrees of protracted languishment and pain, grievous to endure, and obstructive of those active offices, which, in his present sphere, man is called upon to perform. There are duties, however, of another class, not less essential to the improvement and excellence of his moral and religious character; and where is a school to be found like the chamber of sickness for meekness, patience, resignation, gratitude, and devout trust in GOD? There pride is humbled, the angry passions subside, animosities cease, and the vanities of the world lose their bewitching attractions. False associations are there corrected, true estimates

are formed; and, whilst the passive virtues are cultivated in the suffering individual, all who minister to him have their best dispositions exercised and improved. Tenderness, humanity, sympathy, friendship, and domestic love, on such occasions, find that sphere which is peculiarly adapted to their exertion; and all the softer charities derive from these sources their highest refinements[w].

Rational theism leads the mind, by fair and necessary induction, to extend its views to Revelation. He who has discovered the Divine wisdom, power, and goodness, through the various works of creation, will feel a solicitude to make farther advances in sacred knowledge; and, the more profoundly he venerates the Author of his being, the more earnest will he be to become acquainted with His will, with the means of conciliating His favour, with the duration of his own existence, and with his future destination. Several distinguished characters in the heathen world have in a very explicit manner testified the truth of this observation. Suffice it to state only the following remarkable passages from Plato[x]:—"A divine revelation is necessary to explain the true worship of God—to add authority to moral precepts—to assist our best endeavours in a virtuous course—to fix the future rewards and punishments of virtuous and vicious conduct—and to point out some acceptable expiation for sin." He

[w] See Percival's *Father's Instructions*, pt. iii. p. 312. (*Works*, vol. i. p. 277.)

[x] [Alluding probably to *Alcib. II.* pp. 141 sq., 150 sq.]

introduces Socrates, assuring Alcibiades, "that in a future time a divine person will appear, who, in pure love to man, shall remove all darkness from his mind, and instruct him how to offer his prayers and praises in the most acceptable way to the Divine Being." The privileges which this intelligent and amiable philosopher ardently looked for, we happily enjoy. Christianity has "brought life and immortality to light[7];" and the Gospel is the sacred charter of our expected inheritance of felicity. To regard with indifference what is so momentous, is the grossest folly; to be dissatisfied with its evidence, argues the want of discernment and of candour; and to reject it, without deliberate and conscientious investigation, is a high degree of impiety: the appeal, however, must finally be made to the judgement of every individual; and we may humbly hope, that He Who knoweth our frame, will pity intellectual infirmity, and pardon involuntary error.

NOTE IX. Chap. ii. § 31. p. 66.

Union in consultation of senior and junior Physicians.

"HEAT and vivacity in age," says Bacon[8], "is an excellent composition for business. Young men are fitter to invent than to judge, fitter for execution than for counsel, and fitter for new projects than for settled

[7] [2 Tim. i. 10.] [8] *Essays*, § 42. (*Works*, vol. ii. p. 343.)

business; for the experience of age, in things that fall within the compass of it, directeth them, but in new things abuseth them. The errors of young men are the ruin of business; but the errors of aged men amount but to this, that more might have been done or sooner. Young men, in the conduct and manage of actions, embrace more than they can hold; stir more than they can quiet; fly to the end without consideration of the means and degrees; pursue some few principles, which they have chanced upon, absurdly; care not to innovate, which draws unknown inconveniences; use extreme remedies at first; and, that which doubleth all errors, will not acknowledge or retract them; like an unruly horse, that will neither stop nor turn. Men of age object too much, consult too long, adventure too little, repent too soon, and seldom drive business home to the full period, but content themselves with a mediocrity of success. Certainly it is good to compound employments of both; for that will be good for the present, because the virtues of either age may correct the defects of both; and good for succession, that young men may be learners, while men in age are actors; and lastly, good for extern accidents, because authority followeth old men, and favour and popularity youth. But for the moral part, perhaps youth will have the pre-eminence, as age hath for the politic."

[NOTE X. Chap. iv. § 2. p. 79.

On Wills.

In case of intestacy if a man leave a wife and children, the wife takes one third of the personal estate, and the other two thirds belong to the child or children. If the deceased leave a wife, but no child, one half of his personal estate will descend to his wife, and the other half will be divisible among his nearest of kindred, in the same manner as the whole would have been divisible if he had left no wife. But under no circumstances is the wife entitled to more than half of her husband's estate, if he die intestate. The father of an intestate without issue is entitled to one half of his estate if he leave a widow, and to the whole if he leave none. When the nearest of kindred are the mother and the brothers and sisters, the personal estate is divisible into equal portions, one of which will belong to the mother, and one to each of the brothers and sisters*.

By Stat. 1 Vict. c. 26, one settled rule is established, which is applicable to every species of Wills and every description of property; it being enacted that no Will shall be valid unless it shall be in writing, and signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction. Every will must have at least two witnesses, who must be present at the same time during the signature of

* [See Hudson's *Directions for Making Wills*, where more minute information on the subject may be found.]

the testator, and must attest and subscribe the Will in the presence of the testator:—but no particular form of attestation is necessary.—If a person to whom a legacy is given, be witness to a Will, he forfeits his legacy; but a creditor may be a witness to a Will without forfeiting his debt, and also an executor without invalidating his appointment to the executorship.]

NOTE XI. Chap. iv. § 2. p. 83.

Partial insanity, with general intelligence. Lucid interval.

Sir Matthew Hale has stated[b], that "There is a *partial* insanity of mind; and a *total* insanity. The former is either in respect to things, *quoad hoc vel illud insanire;* some persons, that have a competent use of reason in respect of some subjects, are yet under a particular *dementia* in respect of some particular discourses, subjects, or applications; or else it is particular in respect of degrees; and this is the condition of very many, especially melancholy persons, who for the most part discover their defect in excessive fears and griefs, and yet are not wholly destitute of the use of reason; and this partial insanity seems not to excuse them in the committing of any offence for its matter capital; for doubtless most persons that are felons of themselves, and others, are under a degree of partial insanity, when they commit these offences.....The per-

[b] *Hist. Placitor. Coronae*, pt. i. ch. 4. p. 30.

son that is absolutely mad for a day, killing a man in that distemper, is equally not guilty, as if he were mad without intermission. But such persons as have their lucid intervals (which ordinarily happens between the full and change of the moon,) in such intervals have usually at least a competent use of reason, and crimes committed by them in these intervals are of the same nature, and subject to the same punishment, as if they had no such deficiency; nay, the alienations and contracts made by them in such intervals are obliging to their heirs and executors."

Partial insanity and general intelligence may subsist in various degrees and proportions to each other in different persons, and even in the same person at different times. If Socrates had lived at this period, and had not only professed himself to be governed by the influences of a familiar spirit, or demon, but had also uniformly regulated his conversation and actions by this persuasion, he would have been justly chargeable with derangement of mind, notwithstanding the profound wisdom which he displayed in his instructions concerning morals and the conduct of life. Lord Herbert of Cherbury was highly distinguished both for talents and erudition: but, having unfortunately adopted prejudices against Christianity, he wrote an elaborate work entitled, "De Veritate, prout distinguitur a Revelatione;" and, knowing it would meet with much opposition, he remained some time in anxious suspense about the publication of it. Providence, however, as he informs us in his own biographical memoirs, kindly interposed, and determined

his wavering resolutions. "Being thus doubtful in my chamber, one fair day in the summer, my casement being opened towards the south, the sun shining clear, and no wind stirring, I took my book, 'De Veritate,' in my hand, and kneeling on my knees, devoutly said these words:—'O Thou eternal GOD, ... I am not satisfied enough whether I shall publish this book, 'De Veritate;' if it be for Thy glory, I beseech Thee give me some sign from heaven; if not, I shall suppress it.' I had no sooner spoken these words, but a loud though yet gentle noise came from the heavens, (for it was like nothing on earth,) which did so comfort and cheer me, that I took my petition as granted, and that I had the sign I demanded; whereupon also I resolved to print my book." This was not a temporary delusion of the imagination, but continued a permanent object of belief through life. And the impression was more extraordinary, and more indicative of an unsound mind, because Lord Herbert's chief argument against Christianity is, the improbability that Heaven shall reveal its laws *only to a portion of the earth*. For how could he, who doubted of a *partial*, confide in an *individual*, revelation? or is it possible that he could rationally think his book of sufficient importance to extort a declaration of the Divine will, when the interest and happiness of a fourth part of mankind were deemed by him objects inadequate to the like display of goodness[c].

[c] See Walpole's *Cat. of Royal and Noble Authors*, vol. i. p. 188; also Percival's *Moral and Liter. Dissert.*, p. 82. (*Works*, vol. ii. p. 52.)

The history of the Rev. Simon Browne still more remarkably exemplifies the union of vigour and imbecility, of rectitude and perversion in the same understanding. The loss of his wife and of his only son so powerfully affected him, that he desisted from the duties of his clerical function, and could not be persuaded to join in any act of worship to the Deity, either public or private. "He imagined that Almighty GOD, by a singular instance of Divine power, had, in a gradual manner, annihilated in him the thinking substance, and utterly divested him of consciousness: that, though he retained the human shape, and the faculty of speaking, in a manner that appeared to others rational, he had all the while no more notion of what he said than a parrot. And, very consistently with this, he looked upon himself as no longer a moral agent, a subject of reward or punishment." In this conviction he continued with very little variation, to the close of life. Yet, whilst under the influence of this strange phrenzy, his faculties, in all other respects, appeared to be in full vigour. He applied himself with ardour to his studies; and was so acute a disputant, that his friends were wont to say, "he could reason as if possessed of *two* souls." Indeed, both his imagination and his judgement were so improved as to surpass the state in which they subsisted during his perfect sanity[d].

In J. J. Rousseau, we have a most interesting example of morbid sensibility and depraved imagination,

[d] See *Biogr. Britann.* (ed. Kippis,) Art. "Simon Browne."

combined with extensive knowledge and pre-eminent genius. It is said by Madame de Staël* that "sometimes he would part with you, with all his former affection; but, if an expression had escaped you, which might bear an unfavourable construction, he would recollect it, examine it, exaggerate it, perhaps dwell upon it for a week, and conclude by a total breach with you. Hence it was, that there was scarce a possibility of undeceiving him; for the light which broke in upon him at once, was not sufficient to efface the wrong impressions which had taken place so gradually in his mind. It was extremely difficult too to continue long on an intimate footing with him: a word, a gesture, furnished him with matter of profound meditation; he connected the most trifling circumstances, like so many mathematical propositions, and conceived his conclusion to be supported by the evidence of demonstration[t]."

I have hazarded an opinion in the text, contrary to what, I believe, is usually adopted by lawyers, that there may be cases of partial insanity with a high degree of general intelligence, in which the individual ought not to be precluded from the privilege of making a last will and testament. To deny the testamentary qualification to one, who, notwithstanding some false predominant conception, has been held capable of managing his concerns with discretion, and whose be-

* *Lettres sur les Ecrits et le Caractère de J. J. Rousseau.*

[t] The reader is referred to Dugald Stewart's *Philosophy of the Human Mind*, ch. 7. § 5, for some admirable remarks on the evils which result from an ill-regulated imagination.

quests discover no traces of a disturbed imagination, or unsound judgement, seems to be inconsistent both with wisdom and with natural justice. Such a person, I presume, is capable of acquiring property by legacy, by bargain, by transfer, by industry, or by office; and he is not prohibited during life from giving or expending possessions thus obtained. Why then does the law deprive him of the right of bequeathing after death, that which he might have dispensed, when alive, without control? Whatever be the opinion which a Medical practitioner may have entertained concerning the capacity or incapacity for making a will of one under these circumstances, it can hardly be necessary to observe, that his evidence, when called for in a course of legal enquiry, should be delivered explicitly, and without any bias from his pre-conceptions. On the point litigated it is the exclusive province of the judge and jury to decide, after a full investigation of the case.

To determine the existence of a lucid interval in the delirium of fever, or in the more permanent alienation of mind which constitutes insanity, the testimony of a Physician is sometimes required in courts of law. It will be incumbent on him, therefore, to possess a clear and definite opinion on the subject, founded both on the nature of the malady, and the state of the patient. The cessation of febrile delirium is not difficult to ascertain, because the rational faculties, being unimpaired by a short suspension, at once manifest their renewal by signs which cannot be misunderstood; but

the complete remission of madness is only to be decided by reiterated and attentive observation. Every action and even gesture of the patient should be sedulously watched, and he should be drawn into conversations at different times that may insensibly lead him to develope the false impressions under which he labours. He should also be employed occasionally in business or offices connected with, and likely to renew, his wrong associations. If these trials produce no recurrence of insanity, he may, with full assurance, be regarded as legally *compos mentis* during such period, even though he should relapse a short time afterward into his former malady.

[NOTE XII. Chap. iv. § 5. p. 85.

On the new Lunatic Act.

By Lord Ashley's new "Act for the Regulation of the Care and Treatment of Lunatics," (8 and 9 Vict. c. 100.) many alterations were made in the old law, of which the following are some of the most important[s].

We have, in the first place, secured by this act a permanent body of six able and experienced gentlemen to officiate as visiting Commissioners, three of whom are barristers, and three are physicians, and who are required to devote their time exclusively to the perform-

[s] For further details the reader may consult Dr. Winslow's edition of the Act, (1845, small 8vo.) from which the following observations are taken, p. 32 &c.

ance of their official duties. They are not permitted to hold any other office for which they derive remuneration, or to be connected either directly or indirectly with any public or private establishments for the reception of the insane; neither can they exercise their respective professions of law and medicine. They receive a salary of £1500 per annum; and the appointment is for life. They are empowered not only to visit private lunatic asylums, but gaols, workhouses, and hospitals, —in fact, every place in which insane persons are confined. They are to institute the most rigid scrutiny into their condition, with the view of ascertaining whether they are unjustly confined, or improperly treated; and, if such should be the case, to report accordingly to the Lord Chancellor, who is invested with full authority to redress any injury which may have been inflicted.

With respect to the medical certificates required of those who have the power of consigning a fellow-creature to an asylum, formerly, the Physician, Surgeon, or Apothecary, was merely called upon to certify to the abstract fact of the presence of unsoundness of mind in any given case; but, according to the present law, it is necessary for the person signing it to state the facts in connexion with the case upon which he has founded his opinion. Independently of thus affording an additional protection to the public, a body of valuable information will be obtained, which may be turned by the Commissioners to useful account. In connexion with this branch of the subject may be men-

tioned the Medical "Case Book," which the Act requires every Medical superintendent of the insane to keep for the inspection of the Commissioners. He is not merely (as under the old law,) to enter the name, form of the malady, the place of abode, age, and social condition of each patient intrusted to his care, but he is, at the same time, to give in writing a correct description of the medicine and other remedies prescribed for the treatment of his disorder.

Among the minor, but still important, amendments effected in the law, the following may be mentioned: the Act enables a proprietor of an asylum to retake a patient who may have escaped from confinement. Again, parties guilty of ill-treating a patient may be proceeded against for misdemeanour. Individuals considering themselves to have been ill-treated, or wilfully neglected, may, after having regained their liberty, obtain, upon application to the Secretary of the Commissioners, a copy of the medical certificates and order with the view to legal proceedings. In the case of the death of any patient, a statement of the cause of death, with the name of any person who may have been present, is to be drawn up and signed by the Medical attendant, a copy of which is to be sent to the Commissioners. Patients may now be transferred, with the consent of the party signing the order, from one licensed house to another, without renewing the medical certificates; while, under the former Act, the proprietor had to procure fresh certificates for each patient before such a change of residence could be effected. The

Commissioners have the power of making a night visitation to any house in which they may have reason to believe that the patients are subjected to ill-treatment. No patient pronounced by the Medical superintendent to be "dangerous" can be removed from an establishment, unless for the purpose of transferring him to another, without the consent of the Commissioners. The Commissioners also have the power of regulating the dietary of pauper patients confined in licensed houses and hospitals. There is to be a weekly meeting of the board for the consideration of, and adjudication upon, any matters touching the working of this Act, which will very much facilitate the practical operation of the law, as the Commissioners have the power to apply an immediate remedy for any abuse which may be brought under their notice.

Proprietors of asylums are by the new law much more effectually protected than under the former Act. If a party insane, or alleged to be so, is received into a licensed house or hospital, with a written order for his reception, and two medical certificates, the person so admitting him, having complied with the provisions of the act of parliament, is protected from any vexatious actions which might be brought against him by persons representing themselves to have been unjustly confined and detained. The Act enables the proprietor, superintendent, servants, and any person engaged in receiving, detaining, retaking, and confining a person legally certified to be insane, to plead the order and certificates in bar of all proceedings at law. No action can be

maintained against any individual who has in respect of such persons kept within the strict letter of the enactment.

Again, the Act allows the superintendent and proprietor fourteen days to retake a patient who may have made his escape from an asylum, without the necessity of having to procure a fresh order and medical certificate.

But perhaps the most important provision in the new Act, is that which relates to single patients in unlicensed houses and cottages. By the present Act, no one insane, or said to be so, can be sent to, or received in, any unlicensed place, unless two medical certificates have been obtained certifying to the patient's insanity. The person taking charge of such patient is immediately to make a return of his name to the Commissioners, and he is subject to their visitation. The friends or relatives of the patients are compelled by the Act to appoint a Medical superintendent to visit occasionally persons confined in unlicensed places, who is required to enter into a "Medical Visitation Book" all the particulars connected with each case, with an account of the medical and moral treatment adopted. This book is to be open to the inspection of the Commissioners.

By this Act, therefore, (irrespectively of many minor improvements,) four important amendments in the law relating to the regulation of lunatics and lunatic asylums are introduced. First, by the establishment of a permanent body of experienced Commissioners, autho-

rized to inspect every place in which the insane are confined, (excepting those placed under the care of persons who derive no remuneration for undertaking their management, or those who have been the subject of a commission of lunacy, and who are residing with the committee appointed by the Lord Chancellor,) a more vigilant and searching scrutiny into the condition of the insane will be enforced. Secondly, the law throws an additional protection around those who are authorized to keep establishments for the treatment of insanity. Thirdly, by the alteration required in the character of the medical certificates, and the statement which the Act compels every Medical superintendent to keep of the particulars of the medical treatment adopted by him in each case under his care, a valuable collection of facts connected with the pathology of insanity will be recorded, from the study and classification of which important conclusions may be deduced. Fourthly, the abolition of the cottage system of treating the insane cannot but be productive of the most advantageous results. These unhappy persons will now have a fair chance of being restored to health, and to the enjoyment of their social rights and privileges. As the objects for which they were formerly confined in cottages and other unlicensed places—viz. privacy and secrecy—no longer exist, it is hoped that the insane will now be sent to well conducted private establishments, where they will have a chance of being restored to sanity.]

[NOTE XIII. Chap. iv. § 12. p. 102.

Legal penalties on Duelling.

SIMPLY wounding one's antagonist in a duel is now a capital offence. To shoot at a person, though no bodily injury ensue, is a felony punishable with transportation for life. (Stat. 7 Will. IV. and 1 Vict. c. 85.) Challenging another to fight a duel, and using opprobrious language with intent to provoke a person to send a challenge, are misdemeanours at common law.]

NOTE XIV. Chap. iv. § 13. p. 108.

Duelling.

IN the usages of the ancient Germans, evident traces of duelling may be discovered. But it was employed by them either as an appeal to the justice, or to the prescience, of the gods. Velleius Paterculus informs us that questions, decided amongst the Romans by legal trial, were terminated amongst the Germans by arms or judicial combat[h]. Tacitus describes it as a species of divination, by which the future events of important wars were explored[i]. A captive from the enemy was compelled to fight with a man selected from their own nation. Each was accoutred with his proper weapons, and the presage of success was determined by the issue of the battle.

[h] *Hist. Rom.* ii. 118. [i] *German.* c. 10.

A law is quoted by Stiernhöök[k], which shews that judicial combat was at first appropriated to points respecting personal character, and that it was only subsequently extended to criminal cases and to questions relative to property. The terms of the law are, "If any man shall say to another these reproachful words, 'You are not a man equal to other men,' or, 'You have not the heart of a man,' and the other shall reply, 'I am a man as good as you;' let them meet on the highway. If he who first gave offence appear, and the person offended absent himself, let the latter be deemed worse than he was called; let him not be admitted to give evidence in judgement either for man or woman, and let him not have the privilege of making a testament. If the person offended appear, and he who gave the offence be absent, let him call upon the other thrice with a loud voice, and make a mark upon the earth, and then let him who absented himself be deemed infamous, because he uttered words which he durst not support. If both shall appear properly armed, and the person offended shall fall in the combat, let a half compensation be paid for his death. But if the person who gave the offence shall fall, let it be imputed to his own rashness. The petulance of his tongue hath been fatal to him. Let him lie in the field without any compensation being demanded for his death."

Montesquieu, on the authority of Beaumanoir, whom

k *De Jure Sueonum et Gothorum Vetusto*, i. 7. p. 76; quoted by Robertson, *Hist. of Charles V.*, vol. i. Note 22.

he quotes with great respect, deduces the rise and formation of the articles relative to the point of honour from the following particular judicial usages. The accuser declared in the presence of the judge that such a person had committed such an action; the accused made answer that he lied; upon which the judge gave orders for the duel. Thus it became an established rule, that, whenever the lie was given to a person, it was incumbent on him to fight. Gentlemen combatted on horseback, completely armed; villeins fought on foot, and with bâtons. The bâton, therefore, was regarded as an instrument of affront, because to strike a man with it was to treat him as a villein. For the like reason, a box on the ear, or blow on the face, was deemed a contumely, to be expiated with blood; since villeins alone were liable to receive such disgraceful blows, as it was peculiar to them to fight with their heads uncovered[1].

Practices like these were so congenial to the proud and martial spirit of the times, as well as to the superstition which prevailed, that they became universal throughout Europe. But it is evident that they could not fail to subvert the regular course of justice, diminish the authority of government, and violate the sacred ordinances of the Church. For the clergy uniformly remonstrated against, and even anathematized them, as adverse to Christianity; and the civil power frequently interposed, to set bounds to usages, which

[1] See Montesquieu, *De l'Esprit des Loix*, liv. xxviii. ch. 20.

its authority was too feeble to suppress. Henry I. of England, in the twelfth century, prohibited trial by combat in all questions concerning property of small value. Louis VII. of France issued an edict to the same effect. St. Louis, who was a distinguished legislator, considering the rude age in which he reigned, attempted a more perfect jurisprudence by substituting trial by evidence in place of that by combat. And afterwards it became the policy of every monarch, who possessed power or talents, to explode these relics of Gothic barbarism. By degrees the practice became less and less frequent: courts of judicature acquired an ascendancy; law was studied as a science, and administered with great regularity; and the ferocious manners of the inhabitants of Europe yielded to the arts of peace, and to the benefits of social and civilized life. But an event occurred in the year 1528, which both revived the practice of single combat, and gave a new form to it, more absurd and fatal. The political and personal enmity, which subsisted between the Emperor Charles V. and Francis I., led the former to commission the French herald, sent to him with a denunciation of war, to acquaint his sovereign, that he should from that time consider him not only as a base violator of public faith, but as a stranger to the honour and probity of a gentleman. Francis instantly sent back the herald with a cartel of defiance, giving the Emperor the lie, and challenging him to single combat. Charles accepted the challenge; but, it being impracticable to settle the preliminaries, this romantic

and ridiculous enterprise of course was never accomplished. The transaction, however, excited such universal attention, and reflected so much splendour and dignity on this novel mode of single combat, that every gentleman thought himself entitled, and even bound in honour, to draw his sword, and to demand satisfaction of his adversary for affronts trivial and even imaginary[m]. The best blood in Christendom was shed; personages of the first distinction were devoted to death; the ease, the familiarity, and the confidence of private intercourse were interrupted; and war itself was hardly more destructive to life and to its dearest enjoyments than this fatal and seductive frenzy[n].

Evils of such magnitude required adequate reme-

[m] See Robertson's *Hist. of Charles V.* bk. v.

[n] The History of Lord Herbert of Cherbury, who lived in the reigns of Queen Elizabeth and James I., fully exemplifies the folly and danger of adopting false principles of honour. During the abode of this romantic nobleman at the Duke of Montmorenci's, about twenty-four miles from Paris, it happened one evening that a daughter of the Duchess de Ventadour, of about ten or eleven years of age, went to walk in the meadows with his lordship and several other gentlemen and ladies. The young lady wore a knot of riband on her head, which a French chevalier snatched away, and fastened to his hatband. He was desired to return it, but refused. The lady then requested Lord Herbert to recover it for her. A race ensued; and the chevalier, finding himself likely to be overtaken, made a sudden turn, and was about to deliver his prize to the young lady, when Lord Herbert seized his arm, and cried out, "I give it you." "Pardon me," said the lady, "it is he who gives time." "Madam," replied Lord Herbert, "I will not contradict you, but if the chevalier do not acknowledge that I constrain him to give the riband, I will fight with him." And the next day, he sent him a challenge, "being bound thereto," says he, "by the oath taken when I was made Knight of the Bath." See the Life of Lord Herbert of Cherbury; also Percival's *Moral and Literary Dissertations*, p. 299. (*Works*, vol. ii. p. 206.)

dies; and all the terrors of law were every where exerted to repress them. But they have hitherto been employed in vain: nor is it likely that sanguinary punishments will prevail, because the dread of such punishment would be deemed equally dishonourable with the fear of death in the chances of combat. A heavy fine, strictly levied, would operate with greater force on some of the most active principles of the human mind; and if it amounted to half, or one third, of the convicted person's fortune, (such portion being placed in chancery, for the benefit of his heirs or children,) this privation would not only extend to his comforts and accommodations, but would be felt as a species of infamy, by depriving him of the means of maintaining his rank and station in life. Lord Verulam has proposed the following remedy for duelling; which, if effectual with men of quality, would soon disgrace the practice amongst those of inferior degree[o]:—"The fountain of honour is the King and his aspect, and the access to his person continueth honour in life, and to be banished from his presence is one of the greatest eclipses of honour that can be; if his Majesty shall be pleased, that, when this court shall censure any of these offences in persons of eminent quality, to add this out of his own power and discipline, that these persons shall be banished and excluded from his court for certain years, and the courts of his Queen and Prince, I think there is no man that hath any good blood in him, will commit an act that shall cast him

[o] *Charge against Duels.* (*Works*, vol. iv. p. 403.)

into that darkness, that he may not behold his sovereign's face." This proposal of Lord Verulam seems to receive some confirmation from a story related by Lord Shaftesbury in his "Characteristicks[p]." "A certain gallant of our court,.....being asked by his friends, why one of his established character for courage and good sense would answer the challenge of a coxcomb, confessed, 'that for his own sex, he could safely trust their judgement; but how should he appear at night before the maids of honour?'"

Thus the principle on which duelling is founded, is now neither an appeal to the justice of Heaven, nor an expression of resentment for wrong sustained; but generally a mere punctilio of honour, which would affix a stigma on the character for courage of him who omits to offer, and on the opponent who declines the acceptance of, a challenge. Hence forgiveness of injury and reparation from the consciousness of having committed it, those noble sentiments of just and generous minds, are wholly precluded in the intercourse of fashionable life.

A very able moralist, whom I have often quoted with peculiar satisfaction, has reduced the question concerning duelling, as now practised, to this single point: whether a regard for our own reputation is, or is not, sufficient to justify the taking away the life of another. "'A sense of shame,'" says he, "'is so much torture; and no relief presents itself otherwise than by an attempt upon the life of our adversary.' What

[p] *Advice to an Author*, vol. i. p. 273.

then? The distress which men suffer by the want of money is oftentimes extreme, and no resource can be discovered but that of removing a life which stands between the distressed person and his inheritance. The motive in this case is as urgent, and the means much the same, as in the former; yet this case finds no advocates. * * * * * * * * * *

"For the army, where the point of honour is cultivated with exquisite attention and refinement," continues the same excellent writer, "I would establish a *Court of Honour*, with a power of awarding those submissions and acknowledgements, which it is generally the purpose of a challenge to obtain; and it might grow into a fashion with persons of rank of all professions, to refer their quarrels to this tribunal[q]."

An institution, like the one thus forcibly recommended by Dr. Paley, might probably have prevented the late fatal duel between Colonel Montgomery and Captain M'Namara. The address of the latter to the gentlemen of the jury gives just grounds for this opinion, and claims on that account the attention of the legislature. "Gentlemen," said he, "I am a captain in the British Navy. My character you can only hear from others; but to maintain my character in that station, I must be respected. When called upon to lead others into honourable danger, I must not be supposed to be a man who had sought safety by submitting to what custom has taught others to consider as a disgrace. I am not presuming to urge any thing

[q] Paley's *Moral and Political Philosophy*, bk. iii. pt. ii. ch. 9.

against the laws of GOD, or of this land. I know that, in the eye of religion and reason, obedience to the law, though against the general feelings of the world, is the first duty, and ought to be the rule of action: but in putting a construction upon my motives, so as to ascertain the quality of my actions, you will make allowances for my situation[r]." In referring to the foregoing disastrous case, it is proper to notice, that a Surgeon of considerable eminence, who attended on the field of combat in his *professional capacity*, was on this account arrested and sent to Newgate by a warrant from the civil magistrate as a *principal* in the alleged murder, having been present at the duel and antecedently privy to it. Nor was he liberated from prison till the grand jury had rejected the indictment.

It has recently been stated in one of the periodical prints, that a law to prevent duelling was passed in the general assembly of North Carolina during their last session, by which it was enacted, "That no person sending, accepting, or being the bearer of a challenge, for the purpose of fighting a duel, even though no death should ensue, shall ever after be eligible to any office of trust, power, or profit in the state, any pardon or reprieve notwithstanding: and that the said person shall further be liable to be indicted, and on conviction shall forfeit and pay the sum of one hundred pounds to the use of the state. And if any one fight a duel, by which either of the parties shall be killed, then the survivor, on conviction thereof, shall suffer death with-

[r] See *Annual Register*, for 1803, p, 14*.

out benefit of clergy; and the seconds shall be considered as accessaries before the fact, and likewise suffer death[a]."

I shall insert the following communication from my late venerable friend Dr. Benjamin Franklin, on the subject of duelling, because the deliberate opinion of a man peculiarly distinguished by perspicacity, soundness of judgement, and extensive knowledge of the world, cannot fail to be interesting to the reader. The letter was written in the 79th year of his age, and evinces the same vein of humour which characterized him through life. A few passages are omitted, being merely complimentary and personal.

"*Passy, near Paris, July* 17, 1784.

"Dear Sir,

"I received, yesterday, by Mr. White, your kind letter of May 11th, with the most agreeable present of your new book. I read it all before I slept. * * * It is astonishing that the murderous practice of duelling, which you so justly condemn, should continue so long in vogue. Formerly, when duels were used to determine law-suits from an opinion that Providence would in every instance favour truth and right with victory, they were more excusable. At present they decide nothing. A man says something, which another tells him is a lie. They fight; but, whichever is killed, the point in dispute remains unsettled. To this

[a] See *Courier*, March 9, 1803.

purpose they have a pleasant little story here: A gentleman in a coffee-house desired another to sit farther from him. 'Why so?' 'Because, Sir, you smell offensively.' 'That is an affront, and you must fight me.' 'I will fight you, if you insist upon it, but I do not see how that will mend the matter; for, if you kill me, I shall smell too; and if I kill you, you will smell, if possible, worse than you do at present.'—How can such miserable sinners as we are, entertain so much pride as to conceive that every offence against our imagined honour merits death? These petty princes, in their own opinion, would call that sovereign a *tyrant*, who should put one of them to death for a little uncivil language, though pointed at his sacred person. Yet every one of them makes himself judge in his own cause, condemns the offender without a jury, and undertakes himself to be the executioner.

"Our friend Mr. Vaughan may perhaps communicate to you some conjectures of mine, relating to the cold of last winter, which I sent him in return for the observations on cold of Professor Wilson. If he should, and you think them worthy so much notice, you may shew them to your Philosophical Society, to which I wish all imaginable success. Their rules seem to me excellent.

"With sincere and great esteem, I have the honour to be your most obedient,

and most humble servant,

B. Franklin."

NOTE XV. Chap. iv. § 16. p. 114.

Punishment of the crime of Rape.

THE atrocity of this crime appears to have been variously estimated at different periods, and in different countries; if we may judge from the diversity of punishments inflicted on the perpetrators of it. The reader will find a copious and interesting enumeration of them in a volume entitled, "A View of Ancient Laws against Immorality and Profaneness," by John Disney, M.A. Cambridge, 1729, fol. I would refer him also to the "Principles of Penal Law," by Mr. Eden, now Lord Auckland. As both these valuable works are out of print, a few extracts from each may form an acceptable addition to the present note.

"The Burgundian laws provided, that, if the young woman carried off, returned to her parents actually corrupted, the offender should pay six times her price; [that is, six times her *weregild*, or legal valuation;] and also a mulct (to the Crown, I suppose,) of twelve shillings. If he had not wherewithal to pay this, he should be given up to her parents, or near relations, to take their revenge of him in what way they pleased[1]."

By the law of Æthelbert, the first Christian king of Kent, it was enacted, that, if any person take a young woman by force, he shall pay her parent or guardian fifty shillings; and shall make a farther composition for her ransom. If she were espoused he shall com-

[1] [Disney, Tit. i. chap. 9. p. 174.]

pensate the husband by an additional payment of twenty shillings: but if she were with child, the augmented fine shall be five and thirty shillings, and fifteen more to the king[w].

There is an ordinance of King Alfred, for the punishment of rapes committed upon country wenches who were servants, an offence which may be supposed to have been prevalent at that time. It is delivered in the following terms:—"Si quis coloni mancipium ad stuprum comminetur, quinque solidis colono emendet, et sexaginta solidis mulctae loco. Si servus servam ad stuprum coëgerit, compenset hoc virga sua virili. Si quis puellam tenerae aetatis ad illicitum concubitum comminetur, eodem modo puniatur, quo ille qui adultae servae hoc fecerit[x]."

By the Welsh laws of Prince Höel Dha, if two women were walking together without other company, and violence was offered to either or both of them, it was not punishable as a rape; but if they had a third person with them, they might claim their full legal redress. If the perpetrator of a rape, being accused, confessed the fact, besides full satisfaction to the woman, he was to answer for the crime to his sovereign, by the present of a silver stand as high as the king's mouth, and as thick as his middle finger, with a gold cup upon it, so large as to contain what he could take off at one draught, and as thick as the nail of a country fellow who had worked at the plough seven

[w] [See Disney, *ibid.* p. 177 &c.]
[x] [See Wilkins, *Concil. Magn. Britann.*, vol. i. p. 193.]

years. If the offender was not able to make such a present, *virilia membra amittat.*

Sir Edward Coke states this offence as a felony at the common law, which had a punishment, "under such a condition as no other felony had the like." The criminal was adjudged "amittere oculos, quibus virginem concupivit; amittere etiam testiculos, qui calorem stupri induxerunt."

In the ancient law of England, exclusive of the punishment inflicted on the criminal, his horse, greyhound, and hawk, were also subjected to great corporal infamy: but the woman who was the sufferer might prevent all the penalties, if, before judgement, she demanded the offender for her husband. The Roman law was in the same spirit:—"Rapta raptoris aut mortem aut indotatas nuptias optet;" upon which there arose what was thought a doubtful case: "Una nocte quidam duas rapuit; altera mortem optat, altera nuptias[7]."

[NOTE XVI. Chap. iv. § 18. p. 120.

Medical Evidence at Inquests.

By the Act (6 and 7 Will. 4. cap. 89.) a Medical man is liable to a penalty of £5 for failing to attend when summoned upon an inquest: he is entitled to a fee of one guinea for his attendance, and to another guinea in case of a *post mortem* examination.]

7 [See Eden, chap. 22. p. 239.]

Deo Gloria.

Published (uniform in 16mo.) by John Churchill, Princes Street, Soho, London.

LIFE OF DR. BATEMAN. *In the Press.*

DR. WARE ON THE DUTIES AND QUALIFICATIONS OF PHYSICIANS. 1849.

CODE OF ETHICS OF THE AMERICAN MEDICAL ASSOCIATION. 1849. 8*d.*

REV. F. D. MAURICE ON THE RESPONSIBILITIES OF MEDICAL STUDENTS. *Second Edition.* 1849. 9*d.*

LIFE OF MR. TRYE. 1848. 1*s.*

GISBORNE ON THE DUTIES OF PHYSICIANS, resulting from their Profession. 1847. 1*s.*

HUFELAND ON THE RELATIONS OF THE PHYSICIAN to the Sick, to the Public, and to his Colleagues. 1846. 9*d.*

LIFE OF DR. GEORGE CHEYNE. 1846. 2*s.* 6*d.*

LIFE OF DR. BURDER. 1845. 4*s.*

BURDER'S LETTERS FROM A SENIOR TO A JUNIOR PHYSICIAN, on the Importance of Promoting the Religious Welfare of his Patients. 1845. 6*d.*

LIFE OF SIR JAMES STONHOUSE. 1844. 4*s.* 6*d.*

ADDRESS TO A MEDICAL STUDENT. *Second Edition. In the Press.*

PRAYERS FOR THE USE OF THE MEDICAL PROFESSION. *Second Edition.* 1849. 1*s.* 6*d.*

The profits of these little works, if any, will be given to some Medical Charity.

ANECDOTA SYDENHAMIANA. *Second Edition.* 16*mo.* 1847. 2*s.*

"It would certainly form an agreeable task, and might not be unprofitable, to rescue from oblivion the memorable instances of Medical men, in whom piety was combined with high attainments and professional eminence, whose acquirements were duly appreciated by their contemporaries, and whose learned or useful writings have transmitted their names with honour to posterity." (Pearson's *Life of Hey*, Preface, § 7.)

PROSPECTUS.

1. It is proposed (with God's assistance,) to publish in a series the lives of those Physicians who have been most eminent for their piety, in whatever age and country they may have lived.

2. The profits (if any,) arising from these publications will be given eventually to some Medical Charity.

3. In this undertaking the Editor will be happy to receive literary assistance from such of his friends as may take an interest in the work.

4. As the whole of the present expense and risk falls upon the Editor alone, he will gladly accept any donations or subscriptions in aid of the design from persons who may feel an interest in it.

5. The lives will of course vary much in length, some forming each a volume of itself, and others constituting a distinct class consisting of much shorter notices. The volumes will not be published in any particular order, but they will be strictly uniform in size, type, &c.

6. The number of volumes to be published annually must depend on the amount of money received either from the sale of the works, or from the donations of friends.

7. The Editor will be answerable for the general accuracy and fidelity of the narratives, for the tone and spirit of the whole work, and for the selection of the lives to be published; and accordingly he will be deeply pained, if any person of piety and good sense shall consider, either that he has inserted in his list any name but those of Physicians really fearing GOD and loving CHRIST, or that he has published any life written in a low or unchristian spirit: but, as it is proposed to comprehend Physicians of all ages and countries, and not merely those who have been members of the Church of England, (still less those who have belonged to this or that particular party in it,) it is manifest that neither the Editor nor the Writers are to be considered responsible for the particular theological opinions which any of these individuals may have held.

Oxford,
All Saints' Day, 1844.

The Editor will be much obliged to any one who will furnish him with any Letters, Papers, or information of any kind, relating to the life and character of the following individuals.

John Abercrombie, M.D.; -	born 1781, died 1844.
Thomas Bateman, M.D.; -	born 1778, died 1820.
Sir Richard Blackmore, M.D.;	born ——, died 1729.
William Blair; - - -	born ——, died 1822.
Herman Boerhaave, M.D.; -	born 1668, died 1738.
Sir Thomas Browne, M.D.; -	born 1605, died 1682.
John Cheyne, M.D.; - -	born 1777, died 1836.
John Fothergill, M.D.; -	born 1712, died 1780.
John D. Godman, M.D.; - -	born 1794, died 1830.
John Mason Good, M.D.; -	born 1766, died 1827.
Albert von Haller, M.D.; -	born 1708, died 1777.
John Hamon, M.D.; - -	born 1618, died 1687.
David Hartley, M.D.; - -	born 1705, died 1757.
Philip Hecquet, M.D.; - -	born 1661, died 1737.
William Hey; - - -	born 1736, died 1819.
James Hope, M.D.; - -	born 1801, died 1841.
Christ. Will. Hufeland, M.D.;	born 1762, died 1836.
James Kennedy, M.D.; - -	born ——, died 1827.
James Meikle; - - -	born 1730, died 1799.
Philip Syng Physick, M.D.; -	born 1768, died 1837.
Benjamin Rush, M.D.; - -	born 1745, died 1813.
John Rutty, M.D.; - - -	born 1698, died 1775.
Thomas Sydenham, M.D.; -	born 1624, died 1689.
Sam. Aug. And. Dav. Tissot, M.D.;	born 1728, died 1797.
Michael Underwood, M.D.; -	born 1737, died 1820.
Thomas Willis, M.D.; - -	born 1622, died 1675.

Sept., 1849.

The Editor will
furnish him with
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dividuals.

JOHN ABE
THOMAS
SIR RIC
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